



National Disability Insurance Scheme (Practice Standards—Worker Screening) Amendment Rules 2020

I, Graeme Head AO, Commissioner of the NDIS Quality and Safeguards Commission, as delegate of the Minister for the National Disability Insurance Scheme, make the following rules.

Dated 29 June 2020

Graeme Head AO
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 2020*.

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	30 June 2020.	30 June 2020

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 Section 5 (note to heading)

Omit “section 9, 10, 10A, 11 and 11A”, substitute “section 9”.

2 Section 5 (after paragraph (c) of the note to the heading)

Insert:

- (ca) NDIS worker screening check;
- (cb) NDIS worker screening law;

3 Section 5 (definition of *NDIS worker screening check*)

Repeal the definition.

4 Section 5 (definition of *NDIS worker screening legislation*)

Repeal the definition.

5 Section 14A (heading)

Repeal the heading, substitute:

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

6 Paragraph 14A(2)(b)

Omit “subsection 24(6)”, substitute “subsection 24(6), (6A) or (6B)”.

7 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Transitional and special arrangements

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

Omit “1 July 2020”, substitute “1 February 2021”.

9 Subsection 23(12) (subparagraph (b)(i) of the definition of *transition period*)

Repeal the subparagraph, substitute:

- (i) 31 January 2021; and

10 Subsections 24(5) and (6)

Repeal the subsections, substitute:

Acceptable SA checks—recognition of South Australian checks

- (6) A person has an acceptable SA check if:

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- (a) the risk assessed role does not involve the person engaging in child-related work; and
 - (b) before or during the transition period, or within 2 months after the end of the transition period:
 - (i) the person has been subject to an assessment (within the meaning of section 5B of the *Disability Services Act 1993* (SA) as in force from time to time); and
 - (ii) an authorised screening unit has made a finding, in relation to that assessment, to the effect that the person is cleared for disability services employment; and
 - (c) an authorised screening unit has not subsequently made a contrary finding in relation another assessment the person has been subject to under that Act; and
 - (d) it is not more than 3 years since the finding referred to in subparagraph (b)(ii).
- (6A) A person has an acceptable SA check if:
- (a) before or during the transition period:
 - (i) the person has been subject to an assessment (within the meaning of section 8B of the *Children's Protection Act 1993* (SA) as in force immediately before it was repealed or section 8 of the *Children's Protection Law Reform (Transitional Arrangements and Related Amendments) Act 2017* (SA) as in force from time to time); and
 - (ii) an authorised screening unit has made a finding, in relation to that assessment, to the effect that the person is cleared for child-related employment; and
 - (b) an authorised screening unit has not:
 - (i) made a finding under an Act mentioned in subparagraph (b)(i) to the effect that the person is not cleared for child-related employment; or
 - (ii) made a finding under the *Disability Services Act 1993* (SA), as in force from time to time, to the effect that the person is not cleared for disability services employment; and
 - (c) the person is not a prohibited person; and
 - (d) it is not more than 3 years since the finding referred to in subparagraph (a)(ii).
- (6B) A person has an acceptable SA check if:
- (a) during the transition period:
 - (i) the person has been subject to a working with children check conducted by the central assessment unit in accordance with the *Child Safety (Prohibited Persons) Act 2016* (SA) as in force from time to time; and
 - (ii) the central assessment unit has determined under that Act that the person is not prohibited from working with children; and
 - (b) an authorised screening unit has not made a finding under the *Disability Services Act 1993* (SA), as in force from time to time, to the effect that the person is not cleared for disability services employment; and
 - (c) the person is not a prohibited person; and
 - (d) it is not more than 5 years since the determination referred to in subparagraph (a)(ii).

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

Omit “1 July 2020”, substitute “1 February 2021”.

12 Subsection 24(8)

Omit “paragraph (6)(c)”, substitute “the requirements of paragraph (6)(d), (6A)(d) or (6B)(d), as applicable”.

13 Subsection 24(10)(heading)

Repeal the heading, substitute:

Definitions

14 Subsection 24(10)

Insert:

acceptable SA check has the meaning given by subsection (6), (6A) or (6B).

child-related work has the same meaning as in section 6 of the *Child Safety (Prohibited Persons) Act 2016* (SA) as in force from time to time.

prohibited person has the same meaning as in section 15 of the *Child Safety (Prohibited Persons) Act 2016* (SA) as in force from time to time.

15 Subsection 24(10) (subparagraph (b)(i) of the definition of *transition period*)

Repeal the subparagraph, substitute:

(i) 31 January 2021; and

16 Subsection 25(8) (subparagraph (b)(i) of the definition of *transition period*)

Repeal the subparagraph, substitute:

(i) 31 January 2021; and

17 Subparagraph 26(3)(b)(i)

Omit “Part 5 of”.

18 Paragraph 26(4)(b)

Repeal the paragraph, substitute:

(b) immediately before the end of the transition period:

(i) the person satisfied paragraph (3)(b); or

(ii) the person has made a valid application to seek to meet a requirement mentioned in subparagraph (3)(b)(i) or (ii) and that application has not been decided; and

19 Subsection 26(5)

Repeal the subsection, substitute:

(5) For the purposes of paragraph (4)(c), the *transition time* for a person is the later of the following:

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- (a) if the person meets subparagraph (4)(b)(i)—the day the relevant notice or certificate that the person held immediately before the end of the transition period expires;
 - (b) if the person meets subparagraph (4)(b)(ii)—the earlier of the following:
 - (i) if the person is granted a notice in relation to the valid application mentioned in that subparagraph—the day that notice expires;
 - (ii) if the person is not granted a notice in relation to that valid application—the day the person was notified of the decision not to grant the notice.

20 Subsection 26(8) (subparagraph (b)(i) of the definition of *transition period*)

Repeal the subparagraph, substitute:

- (i) 31 January 2021; and

21 Subsection 27(9) (subparagraph (b)(i) of the definition of *transition period*)

Repeal the subparagraph, substitute:

- (i) 31 January 2021; and

22 Subsection 28(9) (subparagraph (b)(i) of the definition of *transition period*)

Repeal the subparagraph, substitute:

- (i) 31 January 2021; and

23 Subsection 29(9) (subparagraph (b)(i) of the definition of *transition period*)

Repeal the subparagraph, substitute:

- (i) 31 January 2021; and

24 Amendments of listed provisions—NDIS worker screening law

Omit “NDIS worker screening legislation” (wherever occurring) and substitute “NDIS worker screening law” in the following provisions:

- (a) section 5 (definition of *clearance*);
- (b) section 5 (definition of *exclusion*);
- (c) section 5 (definition of *interim bar*);
- (d) section 5 (definition of *NDIS worker screening unit*);
- (e) section 5 (definition of *suspension*);
- (f) subparagraph 13(4)(b)(vi) (note);
- (g) paragraph 15(2)(b) (note);
- (h) subsection 15(4);
- (i) paragraph 18(3)(f) (note).