



Disability Services and Inclusion (Compliance Standards and Alternative Compliance Requirements) Rules 2023

I, Amanda Rishworth, Minister for Social Services, make the following rules.

Dated 15 December 2023

Amanda Rishworth
Minister for Social Services

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Part 1—Preliminary

1 Name

This instrument is the *Disability Services and Inclusion (Compliance Standards and Alternative Compliance Requirements) Rules 2023*.

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	The later of: (a) the day on which the <i>Disability Services and Inclusion Act 2023</i> commences; and (b) the day after this instrument is registered.	1 January 2024 (paragraph (a) applies)

Note: This table relates only to the provisions of this instrument as originally made.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 *Disability Services and Inclusion Act 2023*.

4 Definitions

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

- (a) code of conduct;
- (b) NDIS Act;
- (c) regulated activity;
- (d) statutory funding conditions.

In this instrument:

Act means the *Disability Services and Inclusion Act 2023*.

employee, of a person, means a person who is employed or otherwise engaged by the person.

Part 2—Compliance standards

Division 1—Introduction

5 Simplified outline of this Part

This Part sets out compliance standards for regulated activities.

A statutory funding condition that applies to a person who is a party to a funding agreement provides that, if the arrangement or grant in respect of which the agreement is made is in relation to a regulated activity, the person must hold a certificate of compliance for the regulated activity (or be covered by a determination made by the Secretary).

An accredited certification body must grant a certificate of compliance for one or more regulated activities to a person who requests it if the body is satisfied that the person complies with the compliance standards set out in this Part for those activities.

The body must revoke or vary the certificate if the body is satisfied that the person ceases to comply with those compliance standards.

6 Purpose of this Part

For the purposes of subsection 23(1) of the Act, this Part makes provision for and in relation to standards for persons undertaking regulated activities.

Division 2—National Standards for Disability Services

7 Application of this Division

This Division sets out compliance standards that apply to a person undertaking a regulated activity.

Note: The compliance standards set out under this Division are known as the National Standards for Disability Services.

8 First standard—rights

- (1) A person undertaking a regulated activity must:
 - (a) promote the individual rights of people with disability to freedom of expression, self-determination and decision-making; and
 - (b) actively prevent abuse, harm and neglect of, and violence towards, people with disability.
- (2) The following are the indicators (as applicable) that this standard has been met:
 - (a) the person, and the key personnel and employees of the person, treat people with disability with dignity and respect;
 - (b) the person, and the key personnel and employees of the person, recognise and promote the individual rights of people with disability to freedom of expression;
 - (c) the person supports active decision-making and individual choice by people with disability, including by ensuring that information is provided in a timely manner and in an appropriate format to support people with disability, their families and carers to make informed decisions and understand their rights and responsibilities;
 - (d) the person implements and maintains strategies to support people with disability that are:
 - (i) the least restrictive of their rights and opportunities; and
 - (ii) contemporary, evidence-based, transparent and capable of review;
 - (e) the person implements and maintains appropriate measures to ensure that people with disability are free from discrimination, exploitation, abuse, harm, neglect and violence;
 - (f) the person addresses breaches of the rights of people with disability promptly and systemically and uses such breaches (and complaints and incidents resulting from them) as opportunities to improve the supports and services the person provides;
 - (g) the person supports people with disability by providing information about the availability of supports and services that will enable them to meaningfully exercise choice and control, including by making complaints or accessing legal advice or advocacy;
 - (h) the person recognises the role of families, carers and advocates of people with disability in safeguarding and upholding their rights;
 - (i) the person keeps personal information confidential and private.

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9 Second standard—participation and inclusion

- (1) A person undertaking a regulated activity must work with people with disability and their families and carers to promote opportunities for meaningful participation and active inclusion in society.
- (2) The following are the indicators (as applicable) that this standard has been met:
 - (a) the person actively promotes a valued role for people with disability, of their own choosing;
 - (b) the person ensures that people with disability are supported to connect with their family, carers and chosen communities;
 - (c) the person ensures that the individual interests and preferences of people with disability in relation to work, learning, social activities and community connection are understood, respected and facilitated;
 - (d) where appropriate, the person works with families, carers and advocates of people with disability for the purpose of promoting community connection, inclusion and participation of people with disability;
 - (e) the person works in partnership with other organisations and community members to support people with disability to actively participate in their chosen communities;
 - (f) the person uses strategies that promote community and cultural connection for Aboriginal and Torres Strait Islander people.

10 Third standard—individual outcomes

- (1) A person undertaking a regulated activity must assess, plan, provide and review the activity to ensure that it:
 - (a) builds on the individual strengths of people with disability; and
 - (b) enables people with disability to reach their goals.
- (2) The following are the indicators (as applicable) that this standard has been met:
 - (a) the person identifies the strengths, needs and life goals of people with disability by working together with them and (with their consent) their family, carers and advocates;
 - (b) the person plans, provides and reviews the activity on the basis of the individual choices of the people with disability that the activity is provided to, and identifies those choices by working together with people with disability and (with their consent) their family, carers and advocates;
 - (c) the person plans, provides and regularly reviews the activity against measurable life outcomes of people with disability;
 - (d) the person is responsive to diversity in planning and providing the activity, including disability, age, gender, culture, heritage, language, faith, sexual identity, relationship status, and other relevant factors;
 - (e) the person collaborates with other service providers to plan service delivery and to support internal capacity to respond to diverse needs.

11 Fourth standard—feedback and complaints

- (1) A person undertaking a regulated activity must:
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- (a) seek regular feedback in relation to the activity; and
 - (b) use that feedback to inform reviews of, and improvements to, the activity, both at an individual and an organisation-wide level.
- (2) The following are the indicators (as applicable) that this standard has been met:
- (a) the person actively supports people with disability, and their families, carers and advocates, to provide feedback, make complaints and resolve disputes without fear of adverse consequences;
 - (b) the person clearly communicates, to people with disability and their families, carers and advocates, how to access:
 - (i) the complaints management and resolution system implemented and maintained by the person (see subsection 15(4) of the Act); and
 - (ii) independent support, advice and representation;
 - (c) the person resolves complaints together with people with disability and their family, carers and advocates in a proactive and timely manner;
 - (d) the person seeks and, in conjunction with people with disability and their families, carers and advocates, reviews feedback on the provision of the activity:
 - (i) on a regular basis; and
 - (ii) as part of continuous improvement;
 - (e) the person ensures that a culture of continuous improvement is developed using compliments, feedback and complaints to plan, deliver and review services for people with disability and the community;
 - (f) the person effectively manages disputes.

12 Fifth standard—service access

- (1) A person undertaking a regulated activity must manage, in a transparent, fair, equal and responsive way, the manner by which people with disability access, commence and leave the activity.
- (2) The following are the indicators (as applicable) that this standard has been met:
- (a) the person ensures that access to the activity is fair, equal and transparent by seeking and using input from people with disability and their families and carers;
 - (b) the person provides information about the kinds and quality of supports and services provided to people with disability, their families and carers, in a range of formats that are accessible to them;
 - (c) the person develops, applies, reviews and communicates the processes by which a person commences or leaves the activity;
 - (d) the person develops, applies and reviews policies and practices related to the eligibility criteria, priority of access, and waiting lists, for the activity;
 - (e) the person monitors and addresses potential barriers to accessing the activity;
 - (f) the person provides clear explanations when the activity is not available, along with information and referral support to assist people with disability to access alternative activities;

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- (g) the person collaborates with other relevant organisations and community members to establish and maintain a referral network.

13 Sixth standard—service management

- (1) A person undertaking a regulated activity must have effective and accountable service management and leadership to maximise outcomes for people with disability.
- (2) The following are the indicators (as applicable) that this standard has been met:
 - (a) the person ensures that the key personnel and employees of the person are suitably qualified, skilled and supported;
 - (b) the person's practices:
 - (i) are based on evidence and options that are the least restrictive of the rights and opportunities of people with disability; and
 - (ii) comply with legislative, regulatory and contractual requirements;
 - (c) the person documents, monitors and effectively uses appropriate management systems, including systems relating to work health and safety, human resource management and financial management;
 - (d) the person has monitoring, feedback, learning and reflection processes to support continuous improvement;
 - (e) the person has a clearly communicated organisational vision, mission and values which are consistent with contemporary practice;
 - (f) the person has systems to strengthen and maintain organisational capabilities to directly support the achievement of the individual goals of, and outcomes for, people with disability;
 - (g) the person uses person-centred approaches, including the active involvement of people with disability and their families, carers and advocates, to review policies, practices, procedures and service provision.

Part 3—Alternative compliance requirements

Division 1—Introduction

14 Simplified outline of this Part

This Part sets out alternative compliance requirements for regulated activities.

A statutory funding condition that applies to a person who is a party to a funding agreement provides that, if the arrangement or grant in respect of which the agreement is made is in relation to a regulated activity, the person must hold a certificate of compliance for the regulated activity (or be covered by a determination made by the Secretary).

The Secretary may grant a certificate of compliance for one or more regulated activities to a person who requests it if the Secretary is satisfied that the person complies with the alternative compliance requirements set out in this Part for those activities.

The Secretary must revoke or vary the certificate if the Secretary is satisfied that the person ceases to comply with those alternative compliance requirements.

15 Purpose of this Part

For the purposes of subsection 24(1) of the Act, this Part makes provision for and in relation to requirements for persons undertaking regulated activities.

Division 2—Alternative compliance requirements

16 Requirements for registered NDIS providers

- (1) This section sets out the alternative compliance requirements for a person who is a registered NDIS provider (within the meaning of the NDIS Act).
- (2) The person must give to the Secretary a copy of the most recent certificate of registration provided to the person under paragraph 73E(4)(b) of the NDIS Act.
- (3) The person must inform the Secretary within 24 hours of the occurrence of any of the following:
 - (a) the person's registration is varied under section 73L of the NDIS Act;
 - (b) the person is notified of a decision to suspend the person's registration under section 73N of the NDIS Act;
 - (c) the person is notified of a decision to revoke the person's registration under section 73P of the NDIS Act;
 - (d) the person otherwise ceases to be a registered NDIS provider.

17 Requirements for approved providers of aged care

- (1) This section sets out the alternative compliance requirements for a person who is an approved provider of aged care (within the meaning of the *Aged Care Quality and Safety Commission Act 2018*) (the *ACQSC Act*).
- (2) The person must give to the Secretary a copy of the most recent notice given to the person under subsection 63E(1) of the ACQSC Act.
- (3) The person must inform the Secretary within 24 hours of the occurrence of any of the following:
 - (a) the person's approval is suspended under Part 7B of the ACQSC Act;
 - (b) the person's registration is revoked under Division 4 of Part 7A, or Part 7B, of the ACQSC Act;
 - (c) the person otherwise ceases to be an approved provider of aged care.

18 Requirements for accredited organisations providing health care services

- (1) This section sets out the alternative compliance requirements for a person who is accredited against one or more of the following standards formulated under paragraph 9(1)(e) of the *National Health Reform Act 2011*:
 - (a) the *National Safety and Quality Digital Mental Health Standards*;
 - (b) the *National Safety and Quality Health Service Standards*;
 - (c) the *National Safety and Quality Mental Health Standards for Community Managed Organisations*;
 - (d) the *National Safety and Quality Primary and Community Healthcare Standards*.

Note: In 2023, the standards could be viewed on the website of the Australian Commission on Safety and Quality in Health Care (<https://www.safetyandquality.gov.au>).

- (2) The person must give to the Secretary a copy of the most recent accreditation certificate issued to the person by an accreditation agency approved by the Australian Commission on Safety and Quality in Health Care.
- (3) The person must inform the Secretary within 24 hours of the person ceasing to be accredited against a standard mentioned in subsection (1).

19 Requirements if regulated activities are to be provided by registered health practitioners

- (1) This section sets out the alternative compliance requirements for:
 - (a) a regulated activity of a kind that is provided, in whole or in part, by a health practitioner (within the meaning of the Health Practitioner Regulation National Law); and
 - (b) the person undertaking the regulated activity.
- (2) The regulated activity (or part) must be provided by a health practitioner who is registered in a State or Territory, as the kind of health practitioner that can provide that kind of activity, under:
 - (a) for a State or Territory other than Western Australia—the Health Practitioner Regulation National Law, as it applies (with or without modification) as a law of the State or Territory; or
 - (b) for Western Australia—the *Health Practitioner Regulation National Law (WA) Act 2010* of Western Australia, so far as that Act corresponds to the Health Practitioner Regulation National Law.
- (3) If the person provides the regulated activity (or part), the person must give to the Secretary evidence of the person's compliance with the requirement in subsection (2).
- (4) For each health practitioner who provides the regulated activity (or part) for or on behalf of the person, the person must give to the Secretary evidence of the health practitioner's compliance with the requirement in subsection (2).
- (5) In this section:

Health Practitioner Regulation National Law means the Health Practitioner Regulation National Law set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009* of Queensland.

20 Requirements if regulated activities are to be provided by speech pathologists

- (1) This section sets out the alternative compliance requirements for:
 - (a) a regulated activity of a kind that is provided, in whole or in part, by a speech pathologist; and
 - (b) the person undertaking the regulated activity.
- (2) The regulated activity (or part) must be provided by a speech pathologist who is a certified practising member of Speech Pathology Australia (***SPA***).

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- (3) If the person provides the regulated activity (or part), the person must give to the Secretary a copy of the most recent certificate issued to the person by SPA that indicates that the person is a certified practising speech pathologist.
- (4) For each speech pathologist who provides the regulated activity (or part) for or on behalf of the person, the person must give to the Secretary a copy of the most recent certificate issued to the speech pathologist by SPA that indicates that the speech pathologist is a certified practising speech pathologist.

21 Requirements if regulated activities are to be provided by translators or interpreters

- (1) This section sets out the alternative compliance requirements for:
 - (a) a regulated activity of a kind that is provided, in whole or in part, by a translator or interpreter; and
 - (b) the person undertaking the regulated activity.
- (2) The regulated activity (or part) must be provided by a translator or interpreter who is certified or recognised as a translator or interpreter by the National Accreditation Authority for Translators and Interpreters (*NAATI*).
- (3) If the person provides the regulated activity (or part), the person must give to the Secretary a copy of the most recent certificate issued to the person by NAATI that denotes the credentials and practitioner number of the person.
- (4) For each translator or interpreter who provides the regulated activity (or part) for or on behalf of the person, the person must give to the Secretary a copy of the most recent certificate issued to the translator or interpreter by NAATI that denotes the credentials and practitioner number of the translator or interpreter.

22 Requirements for legal aid commissions

It is an alternative compliance requirement for a person that the person is an authority established by or under a law of a State or a Territory for the primary purpose of providing legal assistance.