



National Disability Insurance Scheme (Getting the NDIS Back on Track No. 1) (Miscellaneous Provisions) Transitional Rules 2024

I, Bill Shorten, Minister for the National Disability Insurance Scheme, make the following rules.

Dated 30 September 2024

Bill Shorten
Minister for the National Disability Insurance Scheme

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Part 1—Preliminary

1 Name

This instrument is the *National Disability Insurance Scheme (Getting the NDIS Back on Track No. 1) (Miscellaneous Provisions) Transitional Rules 2024*.

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 after this instrument is registered; and (b) the day on which Schedule 1 to the <i>National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024</i> commences.	3 October 2024

Note: This table relates only to the provisions of this instrument as originally made.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 item 138 of Schedule 1 to the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024*.

4 Definitions

- (1) In this instrument:

amending Act means the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024*.

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

- (2) An expression that is defined for the purposes of the NDIS Act has the same meaning when used in this instrument as it has in that Act.

Part 2—Transitional provisions

5 Debts due to the Agency—complying with requirement to spend NDIS amounts only on NDIS supports

- (1) This section applies in relation to a person’s failure to comply with paragraph 46(1)(a) of the NDIS Act, as in force on and after the commencement of Schedule 1 to the amending Act, in relation to an NDIS amount where the failure occurs during the following period:
 - (a) if the person is an NDIS provider and the person received the amount on behalf of a participant—the period of 30 days starting on that commencement;
 - (b) in any other case—the period of 12 months starting on that commencement.
- (2) Subsection 182(3) of the NDIS Act does not apply in relation to the failure unless:
 - (a) the NDIS amount is \$1,500 or more; or
 - (b) before the failure occurred, the Agency had notified the person about at least 2 previous failures by the person to comply with paragraph 46(1)(a) of the NDIS Act.

6 Claims not required for certain supports

- (1) Section 45A of the NDIS Act, as in force on and after the commencement of Schedule 1 to the amending Act, does not apply in relation to a payment in respect of the acquisition or provision of a recurring transport support under an old framework plan.
- (2) Subitem 132A(1) of Schedule 1 to the amending Act has effect as if the words “and subsection 6(1) of the *National Disability Insurance Scheme (Getting the NDIS Back on Track No. 1) (Miscellaneous Provisions) Transitional Rules 2024*” were added at the end of that subitem.

Note: See subitem 138(2) of Schedule 1 to the amending Act for the power to modify the effect of provisions of that Schedule.

7 Requirement for supports to be most appropriately funded or provided through the National Disability Insurance Scheme

- (1) This section applies in relation to a statement of participant supports included in an old framework plan for a participant if the statement is approved or varied during the period:
 - (a) starting on the commencement of Schedule 1 to the amending Act; and
 - (b) ending immediately before the commencement of the first National Disability Insurance Scheme rules made for the purposes of paragraph 35(4)(d) of the NDIS Act (as added by Schedule 1 to the amending Act).

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- (2) For the purpose of specifying in the statement the general supports that will be provided, and the reasonable and necessary supports that will be funded, the CEO must be satisfied of the matter mentioned in subsection (3) in relation to the funding or provision of each such support, in addition to the matters of which the CEO must be satisfied as mentioned in subsection 34(1) of the NDIS Act, as in force on and after the commencement of Schedule 1 to the amending Act.
 - (3) The matter of which the CEO must be satisfied is that the support is most appropriately funded or provided through the National Disability Insurance Scheme, and is not more appropriately funded or provided through other general systems of service delivery or support services offered by a person, agency or body, or systems of service delivery or support services offered:
 - (a) as part of a universal service obligation; or
 - (b) in accordance with reasonable adjustments required under a law dealing with discrimination on the basis of disability.
 - (4) In deciding whether or not he or she is satisfied of the matter mentioned in subsection (3), the CEO must apply any methods or criteria, and have regard to any matters, that:
 - (a) were prescribed for the purposes of subsection 34(2) of the NDIS Act by National Disability Insurance Scheme rules in force immediately before the commencement of Schedule 1 to the amending Act; and
 - (b) related to the matter mentioned in paragraph 34(1)(f) of the NDIS Act, as in force immediately before that commencement.
 - (5) This section applies as mentioned in subsection (1):
 - (a) whether the participant becomes a participant; and
 - (b) in the case of a variation—whether the plan comes into effect;before, on or after the commencement of Schedule 1 to the amending Act.