



National Disability Insurance Scheme (Facilitating the Preparation of Participants’ Plans – Queensland) Rules 2016

made under sections 32 and 32A (other than 32A(4)) of the

National Disability Insurance Scheme Act 2013

Compilation No. 1

Compilation date:

1 July 2016

Includes amendments up to:

**National Disability Insurance Scheme
(Facilitating the Preparation of Participants’
Plans – Queensland) Amendment Rules 2016**

Prepared by the Department of Social Services

About this compilation

This compilation

This is a compilation of the *National Disability Insurance Scheme (Facilitating the Preparation of Participants' Plans – Queensland)* that shows the text of the law as amended and in force on 01/07/2016 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1 What these Rules are about

- 1.1 Each participant in the NDIS will have a plan, prepared by and with the participant and approved by the CEO of the Agency. Among other things, a participant's plan sets out the supports that will be funded for the participant.
- 1.2 To enable an orderly transition, participants will be phased into the NDIS. There are two steps involved in accessing supports under the NDIS. The first is to become a participant where a person makes an access request and the CEO decides whether they meet the access criteria. The second is for the participant to have a plan approved by the CEO of the Agency. These Rules relate to the second step, and the order in which the CEO will commence the facilitation of the preparation of plans for different groups, known as 'classes', of participants.
- 1.3 These Rules explain how participants in Queensland will be phased into the NDIS. The Rules set out the process for working out when the CEO must commence facilitating the preparation of the plan of a participant in Queensland.
- 1.6 The phasing schedule is intended to give effect to agreements that have been reached between the Commonwealth of Australia and the State of Queensland.
- 1.7 The Act sets out a number of objects and principles for the NDIS, to which these Rules give effect. In giving effect to the objects, regard is to be had to the progressive implementation of the NDIS and the need to ensure the financial sustainability of the NDIS.

Part 2 Preparation of plans for residents of Queensland

- 2.1 Once a person becomes a participant, the CEO can commence facilitating the preparation of a plan for the person. The process for commencing the facilitation of the preparation of plans for participants in Queensland is detailed below.
- 2.2 The table in paragraph 2.5 sets out the classes of Queensland participants and sets out the circumstances in, or period within, which the CEO is to commence the facilitation of the preparation of those participants' plans.
- 2.3 The CEO's decisions to commence facilitating the preparation of plans for classes are tied to timing specified in the table in paragraph 2.5. The CEO need not be satisfied that all participants in a particular class have had their plans facilitated before moving to the next class. Further, the classes do not close at any point in time.
- 2.4 In urgent circumstances, the CEO can commence the facilitation of the preparation of a participant's plan at a particular time, despite the timing set out in the table in paragraph 2.5. If the CEO does so, the CEO is able to delay the commencement of the facilitation of the preparation of other participants' plans, so far as is reasonably necessary, even if that delay would be contrary to that timing.

<p><i>Paragraph 2.4 summarises the effect of subsection 32A(3) of the Act.</i></p>
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- 2.5 The classes of participants, and the circumstances in, or period within, which the CEO is to commence facilitating the preparation of plans for participants in those classes, are as follows:

Class	Participants in the class (who must be residents of Queensland)	Circumstances in, or period within, which the CEO is to commence facilitating the preparation of the participants' plans
Class 1	Persons who reside in Townsville or Charters Towers and are under 18 years of age on 1 April 2016 (including children born on or after 1 April 2016), and persons who reside in Palm Island. Such persons must be among the first 600 participants in Queensland.	As soon as practicable after the person becomes a participant
Class 2	Persons who reside in Townsville or Charters Towers and are under 18 years of age on 1 April 2016 (including children born on or after 1 April 2016), and persons who reside in Palm Island. Such persons must be among the next 1,000 participants in Queensland.	The CEO decides, not before 1 July 2016 , that the Agency has capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Class 1 whose plans have been dealt with and the number yet to be dealt with
Class 3	All other persons who reside in the Townsville Region (including Townsville, Charters Towers and Palm Island)	The CEO decides, not before 1 October 2016 , that the Agency has capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1 and 2 whose plans have been dealt with and the number yet to be dealt with
Class 4	Persons who reside in Mackay	The CEO decides, not before 1 November 2016 , that the Agency has capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2 and 3 whose plans have been dealt with and the number yet to be dealt with

Class 5	Persons who reside in Toowoomba	The CEO decides, not before 1 January 2017 , that the Agency has capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2, 3 and 4 whose plans have been dealt with and the number yet to be dealt with
Class 6	Persons who reside in Ipswich	The CEO decides, not before 1 July 2017 , that the Agency has capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2, 3, 4 and 5 whose plans have been dealt with and the number yet to be dealt with
Class 7	Persons who reside in Bundaberg	The CEO decides, not before 1 October 2017 , that the Agency has capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2, 3, 4, 5 and 6 whose plans have been dealt with and the number yet to be dealt with
Class 8	Persons who reside in Rockhampton	The CEO decides, not before 1 January 2018 , that the Agency has capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2, 3, 4, 5, 6 and 7 whose plans have been dealt with and the number yet to be dealt with
Class 9	Persons who reside in Beenleigh, Cairns, Brisbane North, Brisbane South, Maryborough or Robina	The CEO decides, not before 1 July 2018 , that the Agency has capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2, 3, 4, 5, 6, 7 and 8 whose plans have been dealt with and the number yet to be dealt with

Class 10	Persons who reside in Caboolture/Strathpine or Maroochydore	The CEO decides, not before 1 January 2019 , that the Agency has capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2, 3, 4, 5, 6, 7, 8 and 9 whose plans have been dealt with and the number yet to be dealt with
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- 2.5A The CEO may make a decision mentioned in column 3 of the table before the date mentioned for that decision. Such a decision may only be made if:
- (a) the CEO decides that the Agency has the capacity to commence the facilitation of the preparation of plans for participants in the relevant class before the date; and
 - (b) the decision would not adversely affect the facilitation of the plans of participants in other classes; and
 - (c) the Governments of Queensland and the Commonwealth agree to the CEO making the decision.

Subclasses

- 2.6 Among the participants in a class mentioned in the table in paragraph 2.5 (a **main class**), the CEO may decide that there are one or more classes (subclasses) of participants, constituted by reference to the participant's age.
- 2.7 For each subclass, the CEO is to commence facilitating the preparation of plans for participants in the subclass when the CEO decides that it is appropriate to do so, having regard to the progress of the preparation of plans for participants in the relevant main class.
- 2.8 In making a decision under paragraph 2.6 or 2.7, or considering whether to make such a decision, the CEO must have regard to the following principles:
- (a) subject to the following subparagraphs, within each local government area that has more than 50 participants, the facilitation of the preparation of participants' plans will be done on the basis of age, from youngest to oldest;
 - (b) to the extent feasible, all participants who reside at the same address will have their plans facilitated at the same time;
 - (c) the preparation of plans for shared supported accommodation residents should be done in a way that:
 - (i) takes into account the intensive planning and support required for that facilitation; and
 - (ii) enables, where practicable, participants who reside in the same home or facility to have their plans facilitated at the same time;

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- (d) to the extent feasible, where a group is purchasing a shared support arrangement from a single provider before their transition to the NDIS, all participants in the group will have their plans facilitated at the same time;
 - (e) where a participant is experiencing a major life event (such as leaving school or leaving the care of the state), plan facilitation may occur outside of the general age-based approach mentioned in paragraph (a).

2.9 Paragraph 2.8 does not limit the matters that the CEO may take into account in making a decision.

Consultation

2.10 In making a decision under paragraph 2.6 or 2.7, or considering whether to make such a decision, the CEO must also, where practicable, seek the views of the Government of Queensland and have regard to those views (if any).

2.11 If the table in paragraph 2.5 requires that a decision be made on or after a particular date, and the CEO is considering making that decision after that date, the CEO must, as early as possible:

- (a) seek the views of the Government of Queensland and of the Commonwealth Department that administers the Act about the proposed decision (including their views about the effect that making the decision would have on arrangements agreed between the Commonwealth and Queensland for the funding of the NDIS); and
- (b) use his or her best endeavours to reach an agreement with those entities about the proposed decision.

Part 3 Other matters

Citation

- 3.1 These Rules may be cited as the *National Disability Insurance Scheme (Facilitating the Preparation of Participants' Plans—Queensland) Rules 2016*.

Interpretation

- 3.2 These Rules include text that summarises provisions of the Act. The boxed notes identify such text, which does not form an operative part of these Rules.
- 3.3 Terms and expressions that are used in the Act have the same meaning in these Rules unless these Rules display a contrary intention—see the *Acts Interpretation Act 1901* and the *Legislative Instruments Act 2003*, which include definitions and rules of interpretation that apply to all Commonwealth legislation. For convenience, the more important definitions from the Act are identified or reproduced in paragraph 3.4.
- 3.4 In these Rules:

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

Agency—see section 9 of the Act.

CEO—see section 9 of the Act.

child—see section 9 of the Act.

NDIS—see section 9 of the Act.

NDIS areas has the same meaning as in the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016*.

NDIS rules—see section 9 of the Act.

participant—see section 9 of the Act.

participant's plan – means a plan as defined in section 9 of the Act.

- 3.5 All areas of Queensland mentioned in the table in paragraph 2.5 (for example, Townsville, Townsville Region, Mackay) take their meanings from the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016*.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	
exp = expires/expired or ceases/ceased to have effect	reloc = relocated
F = Federal Register of Legislation	renum = renumbered
gaz = gazette	rep = repealed
LA = <i>Legislation Act 2003</i>	rs = repealed and substituted
LIA = <i>Legislative Instruments Act 2003</i>	s = section(s)/subsection(s)
(md) = misdescribed amendment can be given effect	Sch = Schedule(s)
(md not incorp) = misdescribed amendment cannot be given effect	Sdiv = Subdivision(s)
mod = modified/modification	SLI = Select Legislative Instrument
No. = Number(s)	SR = Statutory Rules
	Sub-Ch = Sub-Chapter(s)
	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
<i>National Disability Insurance Scheme (Facilitating the Preparation of Participants' Plans – Queensland) Amendment Rules 2016</i>	30 June 2016	1 July 2016	

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1, paragraph 1.1	am.; F2016L01119
Part 1, paragraph 1.2	am.; F2016L01119
Part 1, paragraph 1.3	am.; F2016L01119
Part 2, paragraph 2.3	am.; F2016L01119
Part 2, paragraph 2.5	am.; F2016L01119
Part 2, paragraph 2.6	am.; F2016L01119
Part 2, paragraph 2.7	am.; F2016L01119
Part 2, paragraph 2.8	am.; F2016L01119
Part 3, paragraph 3.4	am, def.; F2016L01119
Part 3, paragraph 3.4	am, def.; F2016L01119
Part 3, paragraph 3.5	ad.; F2016L01119