

## EXPLANATORY STATEMENT

Issued by the authority of the Minister for Financial Services and Superannuation

*National Disability Insurance Scheme Act 2013*

*National Disability Insurance Scheme—Rules for the Scheme Actuary 2013*

Section 180C of the *National Disability Insurance Scheme Act 2013* (‘the NDIS Act’) provides that the Minister administering the *Insurance Act 1973* may determine rules that the scheme actuary must comply with when performing his or her duties pursuant to section 180B of the NDIS Act. The Minister for Financial Services and Superannuation is the Minister administering the *Insurance Act 1973* and therefore has the authority to determine these rules.

The *Rules for the Scheme Actuary 2013* provide guidance to the scheme actuary to ensure that he or she adopts an insurance-based approach, informed by actuarial analysis, in the performance of his or her duties under the NDIS Act.

The rules support the long-term financial sustainability of DisabilityCare Australia by embedding key elements of an insurance-based governance cycle which involves projecting outcomes and monitoring actual experience before responding accordingly.

### Commencement

The rules commence on 1 July 2013, unless they are registered on or after this date, in which case they commence on the day after they are registered.

### Consultation

The States and Territories were consulted before the Minister determined the rules, but formal agreement was not sought as it is not required under the NDIS Act. The following were also consulted:

- the Australian Prudential Regulation Authority;
- the Chief Executive Officer, Chair and Board member of DisabilityCare Australia;
- the Department of Finance and Deregulation; and
- the Australian Government Actuary.

### Explanation of provisions

There are three parts to these rules:

- **Part 1** provides the commencement date and definitions of terms.
- **Part 2** provide the duties that the scheme actuary must comply with.
- **Part 3** provides the content required in the annual financial sustainability report.

## **Part 1 – Preliminary**

Section 1 provides the name of these rules.

Section 2 provides that the rules are to commence on 1 July 2013, unless they are registered on or after this date, in which case they commence on the day after they are registered.

Section 3 provides definitions for terms in these rules.

## **Part 2 – General performance of duties**

This Part provides a description of the scheme actuary's general duties.

Section 4 provides that the scheme actuary must advise the Agency on NDIS processes and decisions to best ensure the financial sustainability of the NDIS. This will include: ensuring decisions about access criteria are made efficiently, consistently and accurately; monitoring, assessing and reporting on the consistency of resource allocation and participant outcomes; evaluating and reporting on NDIS outcomes and performance, including against key performance indicators such as people with disability achieving their goals for independence and social and economic participation; and undertaking ongoing research into continuous improvement and best practice.

Section 5 provides that the scheme actuary must produce and provide to the Board a report at least once each quarter that estimates future expenditure and compares the experience of the NDIS with the most recent projections which could include the annual financial sustainability report. This requirement may initially be difficult to satisfy, but will become more achievable as data becomes available over time. It is an important element of an insurance-based governance model.

Section 6 provides that the scheme actuary must advise the Agency of the sources of information that he or she will require to prepare an annual financial sustainability report and quarterly reports such as data, information, reports, and access to relevant persons. This assists the Agency to fulfil its obligation under section 180F of the NDIS Act to make arrangements to enable the scheme actuary to perform his or her duties.

Section 7 provides that the scheme actuary must have regard to relevant professional guidance including the requirements in the Code of Professional Conduct of the Institute of Actuaries of Australia to act with honesty, integrity and due care and to exercise independent professional judgment and give impartial advice.

## **Part 3 – Content of annual financial sustainability report**

This Part describes the content of the annual financial sustainability report.

Section 8 provides that the scheme actuary must identify, discuss and make recommendations on key risks to the financial sustainability of the NDIS in an annual financial sustainability report.

Section 9 provides that the scheme actuary must comment on the most recent experience and trends of the NDIS in an annual financial sustainability report as well as provide any recommendations and comments on any steps taken or proposed to address areas of deviation

and adverse experience. For example, this could include looking at the experience of early intervention supports.

Section 10 provides that the scheme actuary must project future experience and comment on changes to past projections in an annual financial sustainability report. The report must include the methodology and key assumptions used to prepare the projections.

Section 11 provides that the scheme actuary must comment on the Agency's administrative infrastructure, processes and risk management in an annual financial sustainability report. The report must include comments on the adequacy of the Agency's processes such as decision support tools, data and information systems and processes for monitoring emerging experience and responding to adverse movements in emerging experience. The scheme actuary should be involved in the development of decision support tools and the monitoring of emerging experience.

Section 12 provides that the scheme actuary must discuss other matters which he or she considers material to the financial sustainability of the NDIS and comment on the extent to which any previous recommendations have been acted on by the Agency in an annual financial sustainability report.

### **Regulation Impact Statement**

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required as the rules have a minor impact on business and the not-for-profit sector.

### **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

This Legislative Instrument does not engage any of the applicable rights or freedoms. This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.