



National Disability Insurance Scheme (Prescribed Program—Western Australia) Rules 2018

National Disability Insurance Scheme Act 2013 (the Act).

The Act establishes the National Disability Insurance Scheme (NDIS).

People who are participants in the NDIS will be assisted to develop a personal, goal-based plan about how they will be provided with general supports and reasonable and necessary supports.

The NDIS will respect the interests of people with disability in exercising choice and control about matters that affect them.

National Disability Insurance Scheme (Prescribed Program—Western Australia) Rules 2018.

This instrument is made for the purposes of sections 21 and 209 of the Act.

This instrument is about ensuring that people in Western Australia who are currently receiving supports from certain specified State funded disability services will be supported as participants in the NDIS, provided that they meet the access criteria set out in section 21 of the Act.

This instrument commences on the day after this instrument is registered.

The Hon Dan Tehan MP
Minister for Social Services

Date: 10 May 2018

Contents

National Disability Insurance Scheme (Prescribed Program—Western Australia)		
Rules 2018		1
Part 1	What this instrument is about	3
Part 2	Prescribed program	4
Part 3	Other matters	5
	Citation	5
	Interpretation	5

Part 1 What this instrument is about

- 1.1 The National Disability Insurance Scheme (**NDIS**), as administered by the National Disability Insurance Agency (**Agency**), was initially implemented in Western Australia at the Perth Hills trial site.
- 1.2 The State of Western Australia (**WA**) also implemented an NDIS comparative model, the WA NDIS Model. This model is funded or administered by the WA Department of Communities under the *Disability Services Act 1993* (WA) and in the context of the WA NDIS Model, an Existing WA NDIS Participant is a participant under that Act.
- 1.3 The Commonwealth of Australia and WA have agreed that the NDIS will be implemented in Western Australia progressively as set out in the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016*. The WA NDIS Model will cease in each NDIS area in Western Australia upon transition of that area to the NDIS.
- 1.4 To access the NDIS, each Existing WA NDIS Participant must make an access request to the Agency to become a participant under the NDIS. Under subsection 21(2) of the Act, a person who does not meet the access criteria specified under subsection 21(1), may be considered against the alternative access criteria under subsection 21(2).
- 1.5 This instrument is made for the purposes of subsection 21(2) and section 209 of the Act. This instrument makes the WA NDIS Model a prescribed program for the purpose of subparagraph 21(2)(b)(iii) of the Act. This instrument is to give effect to the agreement between the Commonwealth of Australia and WA to transition Existing WA NDIS Participants (including those aged 65 or over provided they were under 65 years when they became an Existing WA NDIS Participant) into the NDIS, to ensure the continuity of disability supports and services to those people.
- 1.6 The Act sets out a number of objects and principles for the NDIS, to which this instrument gives 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 Prescribed program

- 2.1 The WA NDIS Model is prescribed for the purposes of subparagraph 21(2)(b)(iii) of the Act.

Note 1: To satisfy the requirement of subparagraph 21(2)(b)(i) of the Act, an Existing WA NDIS Participant must also be receiving supports under the WA NDIS Model at the time the CEO is considering their access request (see paragraph 21(2)(b) of the Act).

Note 2: In addition to paragraph 21(2)(b) of the Act, the CEO must also be satisfied that an Existing WA NDIS Participant meets the requirements of paragraphs 21(2)(a) and (c) of the Act.

Part 3 Other matters

Citation

- 3.1 This instrument may be cited as the *National Disability Insurance Scheme (Prescribed Program—Western Australia) Rules 2018*.

Interpretation

- 3.2 This instrument includes text that summarises provisions of the Act.
- 3.3 This instrument does not relate to the preparation or management of a participant's plan. It relates to the access criteria to be considered against in order to become a participant. This instrument does not attempt to limit or affect the circumstances in which the CEO may be satisfied that a person meets the access criteria under the Act.
- 3.4 Terms and expressions that are used in the Act have the same meaning in this instrument unless this instrument displays a contrary intention—see the *Acts Interpretation Act 1901* and the *Legislation Act 2003*, which include definitions and rules of interpretation that apply to all Commonwealth legislation. For convenience, the more important definitions from the Act, or instruments made under the Act, are identified or reproduced in paragraph 3.5.
- 3.5 In this instrument:

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

Agency – see section 9 of the Act.

CEO – see section 9 of the Act.

Existing WA NDIS Participant has the same meaning as in paragraph 8.4 of the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016*.

NDIS means the National Disability Insurance Scheme (see section 9 of the Act).

participant – see section 9 of the Act, unless the context in this instrument otherwise requires.

WA NDIS Model has same meaning as in paragraph 8.4 of the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016*.