



National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Act 2022

No. 27, 2022

**An Act to amend the *National Disability Insurance
Scheme Act 2013*, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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**An Act to amend the *National Disability Insurance
Scheme Act 2013*, and for related purposes**

[Assented to 1 April 2022]

The Parliament of Australia enacts:

*No. 27, 2022 National Disability Insurance Scheme Amendment (Participant Service
Guarantee and Other Measures) Act 2022 1*

1 Short title

This Act is the *National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Act 2022*.

2 Commencement

- (1) Each provision of this Act 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. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	1 April 2022
2. Schedule 1, item 1	The seventh day after this Act receives the Royal Assent.	8 April 2022
3. Schedule 1, items 2 and 3	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
4. Schedule 1, items 4 to 12	The seventh day after this Act receives the Royal Assent.	8 April 2022
5. Schedule 1, item 13	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
6. Schedule 1, item 14	The seventh day after this Act receives the Royal Assent.	8 April 2022

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
7. Schedule 1, item 15	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
8. Schedule 1, item 16	The seventh day after this Act receives the Royal Assent.	8 April 2022
9. Schedule 1, items 17 to 29	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
10. Schedule 1, item 30	The seventh day after this Act receives the Royal Assent.	8 April 2022
11. Schedule 1, items 31 to 33	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
12. Schedule 1, items 34 to 36	The seventh day after this Act receives the Royal Assent.	8 April 2022
13. Schedule 1, item 37	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
14. Schedule 1, item 38	The seventh day after this Act receives the Royal Assent.	8 April 2022
15. Schedule 1, item 39	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
16. Schedule 1, item 40	The seventh day after this Act receives the Royal Assent.	8 April 2022
17. Schedule 1, item 41	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
18. Schedule 1, items 42 and 43	The seventh day after this Act receives the Royal Assent.	8 April 2022
19. Schedule 1, items 44 to 51	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
20. Schedule 1, items 52 to 57	The seventh day after this Act receives the Royal Assent.	8 April 2022
21. Schedule 1, item 58	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
22. Schedule 1, items 59 and 60	The seventh day after this Act receives the Royal Assent.	8 April 2022
23. Schedule 1, item 61	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
24. Schedule 1, items 63 and 64	The seventh day after this Act receives the Royal Assent.	8 April 2022

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
25. Schedule 1, item 65	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
26. Schedule 1, items 66 and 67	The seventh day after this Act receives the Royal Assent.	8 April 2022
27. Schedule 1, items 68 and 69	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
28. Schedule 1, items 70 and 71	The seventh day after this Act receives the Royal Assent.	8 April 2022
29. Schedule 2	The later of: (a) the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent; and (b) 1 April 2022.	1 July 2022 (paragraph (a) applies)
30. Schedule 3	The seventh day after this Act receives the Royal Assent.	8 April 2022

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Participant service guarantee

National Disability Insurance Scheme Act 2013

1 Section 9

Insert:

Commonwealth Ombudsman means the person for the time being holding office as Commonwealth Ombudsman under the *Ombudsman Act 1976*.

2 Section 9

Insert:

reassessment date of a participant's plan means the date specified in the plan under paragraph 33(2)(c).

3 Section 9 (definition of review date)

Repeal the definition.

4 Section 20

Before “If”, insert “(1)”.

5 Section 20

Omit “, within 21 days of receiving the access request”.

6 At the end of section 20

Add:

- (2) The CEO must do a thing referred to in paragraph (1)(a) or (b) within the following number of days of receiving the access request:
 - (a) 21 days, unless paragraph (b) applies;
 - (b) if the National Disability Insurance Scheme rules prescribe a lesser number of days for the purposes of this paragraph—that lesser number of days.

7 Paragraph 21(3)(a)

Omit “paragraph 20(a) or (b) within the 21-day period referred to in”, substitute “paragraph 20(1)(a) or (b) within the period applicable under”.

8 Subsection 21(3) (note 1)

Repeal the note.

9 Subsection 21(3) (note 2)

Omit “Note 2”, substitute “Note”.

10 Subsection 26(1)

Omit “paragraph 20(b)”, substitute “paragraph 20(1)(b)”.

11 Paragraph 26(2)(b)

Omit “28 days”, substitute “90 days”.

12 Paragraph 26(3)(b)

Omit “28 days”, substitute “90 days”.

13 Section 31

Omit “review”, substitute “variation, reassessment”.

14 Sections 32 and 32A

Repeal the sections, substitute:

32 CEO must facilitate preparation of participant’s plan

- (1) If a person becomes a participant, the CEO must facilitate the preparation of the participant’s plan.
- (2) The CEO must commence facilitating the preparation of the participant’s plan within 21 days of the person becoming a participant.

15 Paragraph 33(2)(c)

Omit “review”, substitute “reassess”.

16 Subsection 33(4)

Repeal the subsection, substitute:

- (4) The CEO must decide whether or not to approve the statement of participant supports:
- (a) within the period worked out in accordance with the National Disability Insurance Scheme rules prescribed for the purposes of this paragraph (which may take account of section 36 (information and reports)); or
 - (b) if there are no such rules—as soon as reasonably practicable, including what is reasonably practicable having regard to section 36 (information and reports).

17 Subsection 36(3) (note)

Omit “reviewed”, substitute “varied or can be reassessed”.

18 At the end of subsection 37(1)

Add:

Note: Division 4 deals with varying and replacing plans.

19 Subsection 37(2)

Repeal the subsection.

20 Paragraph 41(2)(c)

Omit “request a review of the plan under subsection 48(1)”, substitute “make a request under subsection 47A(2) for a variation of the plan or make a request under subsection 48(2) for a reassessment of the plan”.

21 Division 4 of Part 2 of Chapter 3 (heading)

Repeal the heading, substitute:

Division 4—Varying and replacing participants’ plans

22 Subsection 47(1) (note)

Repeal the note, substitute:

Note 1: The participant may make a request under subsection 47A(2) for a variation of the participant’s plan or make a request under subsection 48(2) for a reassessment of the participant’s plan.

Note 2: The CEO may vary the plan under subsection 47A(1) or may reassess the plan under section 48, 49 or 49A.

23 After section 47

Insert:

47A Variation of participant's plan on request of participant or CEO's own initiative

- (1) The CEO may, in writing, vary a participant's plan (except the participant's statement of goals and aspirations) if:
- (a) the variation:
 - (i) is covered by subsection (1A); or
 - (ii) is a correction of a minor or technical error; and
 - (b) any conditions prescribed by the National Disability Insurance Scheme rules are satisfied.

Each variation must be prepared with the participant.

- (1A) For the purposes of subparagraph (1)(a)(i), the following variations of a participant's plan are covered:
- (a) a variation to the reassessment date of the plan;
 - (b) a variation of the statement of participant supports included in the plan in relation to the management of:
 - (i) the funding for supports under the plan; or
 - (ii) other aspects of the plan;
 - (c) a variation of the statement of participant supports included in the plan if:
 - (i) the statement specifies that a support is to be provided by a specified provider, or in a specified manner; and
 - (ii) the variation is to specify that the support is to be provided by another provider, or in another manner, as the case may be;
 - (d) a variation of the statement of participant supports included in the plan, or of the funding of supports under the plan, if:
 - (i) the CEO is satisfied that the participant requires crisis or emergency funding as a result of a significant change to the participant's support needs; or

- (ii) after the participant's plan comes into effect, the CEO receives information in response to a request that had been made under subsection 36(2) or 50(2) in relation to the plan (other than a request made under subsection 50(2) for the purposes of varying the plan on the CEO's own initiative), and the variation relates to that information; or
- (iii) the variation is made for the purposes of dealing with a change to the reassessment date of the participant's plan; or
- (iv) the variation is a minor variation that results in an increase to the funding of supports under the participant's plan.

Note 1: Information mentioned subparagraph (d)(ii) could relate to a support such as an item of assistive technology or a home modification.

Note 2: A statement of participant supports in a participant's plan must give effect to the plan management request of a participant except in certain circumstances (see subsection 43(2)).

Note 3: In varying the participant's plan in relation to the statement of participant supports, the CEO must have regard to the matters set out in subsection (3) of this section.

Variation on request of participant or CEO's own initiative

- (2) The CEO may vary the participant's plan on request of the participant or on the CEO's own initiative.

Requirements of CEO

- (3) In varying the participant's plan in relation to the statement of participant supports, the CEO must:
 - (a) have regard to the participant's statement of goals and aspirations; and
 - (b) have regard to relevant assessments conducted in relation to the participant; and
 - (c) be satisfied as mentioned in section 34 in relation to the reasonable and necessary supports that will be funded and the general supports that will be provided; and
 - (d) apply the National Disability Insurance Scheme rules (if any) made for the purposes of section 35; and

- (e) have regard to the principle that a participant should manage the participant's plan to the extent that the participant wishes to do so; and
- (f) have regard to the operation and effectiveness of any previous plans of the participant.

Decision on request

- (4) If the participant requests a variation of the participant's plan, the CEO must before the end of the period of 21 days beginning on the day the CEO receives the request:
 - (a) make a decision under subsection (1) varying the plan; or
 - (b) make a decision not to vary the plan; or
 - (d) inform the participant that the CEO requires further time to decide whether or not the plan needs to be varied.

Note: If the CEO informs the person that the CEO requires further time to decide whether or not the plan needs to be varied, see subsection (8) for the period for making a decision on the request.

- (5) If the CEO does not do a thing under subsection (4) within that 21-day period, the CEO is taken to have decided not to vary the plan.

Matters to which the CEO must have regard

- (6) The National Disability Insurance Scheme rules may set out matters to which the CEO must have regard:
 - (a) in deciding whether to vary a participant's plan on the CEO's own initiative; or
 - (b) in doing a thing under subsection (4).

Time for decision on request

- (8) If, under paragraph (4)(d), the CEO informs the participant that the CEO requires further time to decide whether or not the plan needs to be varied, the CEO must then vary the plan under subsection (1) or make a decision not to vary the plan:
 - (a) within the period worked out in accordance with the National Disability Insurance Scheme rules prescribed for the purposes of this paragraph (which may take account of section 50 (information and reports)); or

- (b) if there are no such rules—as soon as reasonably practicable, including what is reasonably practicable having regard to section 50 (information and reports).

Variation may be different from the one the participant requested

- (9) If the participant requests a variation of the participant's plan, any variation under subsection (1) may be different from the one requested.

When variation takes effect

- (10) A variation under subsection (1) takes effect on the day specified in the variation (which must not be earlier than the day the variation is made).

Agency to give participant a copy of varied plan

- (11) The Agency must provide a copy of the varied plan to the participant within 7 days of the variation taking effect.

24 Sections 48 and 49

Repeal the sections, substitute:

48 Reassessment of participant's plan on request of participant or CEO's own initiative

- (1) The CEO may conduct a reassessment of a participant's plan at any time.

Reassessment on request of participant or CEO's own initiative

- (2) The CEO may do so on request of the participant or on the CEO's own initiative.

Decision on request

- (3) If the participant requests a reassessment of the participant's plan, the CEO must before the end of the period of 21 days beginning on the day the CEO receives the request:
- (a) make a decision that the plan needs to be varied under subsection 47A(1); or

- (b) make a decision that the plan needs to be reassessed; or
- (c) make a decision not to conduct a reassessment of the plan.

Note: If the CEO decides the plan needs to be reassessed, see subsection (8) for the period for completing the reassessment.

- (4) If the CEO does not make a decision under paragraph (3)(a), (b) or (c) within that 21-day period, the CEO is taken to have decided not to conduct a reassessment of the plan.

Matters to which the CEO must have regard

- (5) The National Disability Insurance Scheme rules may set out matters to which the CEO must have regard:
 - (a) in deciding whether to conduct a reassessment of a participant's plan on the CEO's own initiative; or
 - (b) in making a decision under paragraph (3)(a), (b) or (c).

Notification of decision

- (6) The CEO must notify the participant of the following:
 - (a) a decision of the CEO to conduct a reassessment of the participant's plan on the CEO's own initiative;
 - (b) a decision of the CEO under paragraph (3)(a) or (b).

Note: For notification of a decision under paragraph (3)(c), see subsection 100(1).

Outcome of reassessment

- (7) If the CEO conducts a reassessment under subsection (1) of a participant's plan, the CEO must:
 - (a) complete the reassessment; and
 - (b) either:
 - (i) vary, under subsection 47A(1), the participant's plan as a result of that reassessment; or
 - (ii) prepare a new plan with the participant in accordance with Division 2 and approve, under subsection 33(2), the statement of participant supports in the new plan.

Time for completing reassessment

- (8) The CEO must do the things under paragraphs (7)(a) and (b):
 - (a) within the period worked out in accordance with the National Disability Insurance Scheme rules prescribed for the purposes of this paragraph (which may take account of section 50 (information and reports)); or
 - (b) if there are no such rules—as soon as reasonably practicable, including what is reasonably practicable having regard to section 50 (information and reports).

49 Reassessment of participant's plan before plan's reassessment date

- (1) The CEO must do the following before the reassessment date of a participant's plan:
 - (a) complete a reassessment of the plan;
 - (b) either:
 - (i) vary, under subsection 47A(1), the participant's plan as a result of that reassessment; or
 - (ii) prepare a new plan with the participant in accordance with Division 2 and approve, under subsection 33(2), the statement of participant supports in the new plan.
- (2) The CEO must start the reassessment under subsection (1) before the period (if any) worked out in accordance with the National Disability Insurance Scheme rules prescribed for the purposes of this subsection.

49A Reassessment of participant's plan in circumstances specified in plan

The CEO must conduct a reassessment of a participant's plan in the circumstances, if any, specified in the plan.

25 Section 50 (heading)

Repeal the heading, substitute:

50 Information and reports for the purposes of varying or reassessing a participant's plan

26 Subsection 50(1)

Omit "reviewing", substitute "varying or reassessing".

27 Paragraph 50(2)(a)

Omit "reviewing", substitute "varying or reassessing".

28 Subsection 50(3)

Omit "review", substitute "vary or reassess".

29 Subsection 50(3) (note)

Omit "reviewed" (wherever occurring), substitute "varied or reassessed".

30 Before section 51

Insert:

50J CEO to comply with requirements in relation to prospective participants or participants

The National Disability Insurance Scheme rules may prescribe requirements with which the CEO must comply in relation to the following:

- (a) the preparation of plans for participants;
- (b) plans that have come into effect for participants;
- (c) giving effect to decisions of the Administrative Appeals Tribunal in relation to prospective participants or participants.

31 Paragraph 55(2)(d)

Omit "or review", substitute ", variation or reassessment".

32 Paragraphs 78(1)(a) and (5)(a)

Omit "review", substitute "variation, reassessment".

33 Paragraph 79(1)(a)

Omit “review”, substitute “variation, reassessment”.

34 Subsection 89(1)

Omit “the CEO must, as soon as practicable, cancel the appointment by written instrument.”, substitute:

the CEO must cancel the appointment by written instrument:

- (c) within the period worked out in accordance with the National Disability Insurance Scheme rules prescribed for the purposes of this paragraph; or
- (d) if there are no such rules—as soon as reasonably practicable.

35 Subsection 89(3)

Omit “the CEO must, as soon as practicable, cancel the appointment by written instrument.”, substitute:

the CEO must cancel the appointment by written instrument:

- (c) within the period worked out in accordance with the National Disability Insurance Scheme rules prescribed for the purposes of this paragraph; or
- (d) if there are no such rules—as soon as reasonably practicable.

36 Paragraph 90(3)(a)

Repeal the paragraph, substitute:

- (a) the CEO must decide whether to cancel the appointment within the following number of days after receiving the request:
 - (i) 14 days, unless subparagraph (ii) applies;
 - (ii) if the National Disability Insurance Scheme rules prescribe a number of days for the purposes of this subparagraph—that number of days; and

37 Paragraph 96(2)(b)

Omit “or review”, substitute “, variation or reassessment”.

38 Subsection 99(1) (table item 1)

Omit “paragraph 20(a)”, substitute “paragraph 20(1)(a)”.

39 Subsection 99(1) (table item 6)

Repeal the item, substitute:

6	a decision to vary a participant's plan	subsection 47A(1)	CEO
6A	a decision not to vary a participant's plan	paragraph 47A(4)(b) or subsection 47A(5)	CEO
6B	a decision not to vary a participant's plan	subsection 47A(8)	CEO
6C	a decision not to conduct a reassessment of a participant's plan	paragraph 48(3)(c) or subsection 48(4)	CEO

40 Subsection 100(1)

After “of the reviewable decision”, insert “, and of the reasons for the reviewable decision,”.

41 Subparagraph 100(1A)(a)(ii) and paragraph 100(5)(b)

Omit “or 48(2)”, substitute “, 47A(5) or 48(4)”.

42 Subsection 100(6)

Omit “, as soon as reasonably practicable,”.

43 After subsection 100(6)

Insert:

- (6A) The reviewer must make the decision under subsection (6):
- (a) within the period worked out in accordance with the National Disability Insurance Scheme rules prescribed for the purposes of this paragraph; or
 - (b) if there are no such rules—within the period of 90 days beginning on:
 - (i) if paragraph (5)(a) applies—the day the request is received; or
 - (ii) if paragraph (5)(b) applies—the day after the end of the period applicable under paragraph 21(3)(a) or (b) (as appropriate).

44 Subparagraph 100(6A)(b)(ii)

After “paragraph 21(3)(a) or (b)”, insert “or subsection 47A(5) or 48(4)”.

45 Section 101 (heading)

Repeal the heading, substitute:

101 Effect of later decisions before review completed

46 Section 101

Before “If”, insert “(1)”.

47 At the end of section 101

Add:

(2) If:

- (a) a request is made for review of:
 - (i) a decision under subsection 33(2) to approve the statement of participant supports in a participant’s plan; or
 - (ii) a decision under subsection 47A(1) to vary a participant’s plan, where the variation is a change to the statement of participant supports; and
- (b) before a decision on the review is made:
 - (i) the CEO varies the plan under subsection 47A(1) and the variation is a change to the statement of participant supports; or
 - (ii) a new plan for the participant comes into effect under section 37;

then:

- (c) if subparagraph (b)(i) applies—the request is also taken to be a request for review of the decision to make the variation covered by that subparagraph; or
- (d) if subparagraph (b)(ii) applies—the request is also taken to be a request for review of the decision to approve the statement of participant supports in the new plan.

48 Section 103

Before “Applications”, insert “(1)”.

49 At the end of section 103 (after the note)

Add:

(2) If:

- (a) an application is made to the Administrative Appeals Tribunal for review of a decision made by a reviewer under subsection 100(6); and
- (b) the decision relates to a statement of participant supports in a participant’s plan; and
- (c) before a decision on the review is made and despite subsection 26(1) of the *Administrative Appeals Tribunal Act 1975*:
 - (i) the CEO varies the plan under subsection 47A(1) of this Act and the variation is a change to that statement; or
 - (ii) a new plan for the participant comes into effect under section 37 of this Act;

then:

- (d) if subparagraph (c)(i) applies—the application is also taken to be an application for review of the decision to make the variation covered by that subparagraph; or
- (e) if subparagraph (c)(ii) applies—the application is also taken to be an application for review of the decision to approve the statement of participant supports in the new plan.

50 Paragraph 174(1)(b)

Omit “1 month”, substitute “42 days”.

51 Subsections 174(3) to (4C)

Repeal the subsections, substitute:

- (3) The report must also include information about matters prescribed by the National Disability Insurance Scheme rules for the purposes of this subsection.

52 Section 204 (heading)

Repeal the heading, substitute:

204 Time frames for decision making by persons other than the CEO

53 Subsection 204(1)

Repeal the subsection.

54 Subsection 204(2)

Omit “(2)”.

55 At the end of Part 2 of Chapter 7

Add:

204A Report by Commonwealth Ombudsman

- (1) As soon as practicable after the end of each financial year, the Commonwealth Ombudsman must prepare and give to the Minister a report about some or all of the matters prescribed by the National Disability Insurance Scheme rules for the purposes of this subsection.
- (2) The report must not include personal information (within the meaning of the *Privacy Act 1988*).
- (3) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives it.

Exercise of Commonwealth Ombudsman’s powers

- (4) The Commonwealth Ombudsman’s powers under the *Ombudsman Act 1976* extend to the preparation of a report by the Ombudsman under this section as if the preparation of the report were an investigation by the Ombudsman under that Act.
- (5) The exercise of those powers in relation to the preparation of a report by the Ombudsman under this section is taken, for all

purposes, to be an exercise of powers under the *Ombudsman Act 1976*.

56 At the end of subsection 209(2A)

Add:

- ; and (c) matters relating to how the Agency, the CEO and other specified persons are to engage with participants or prospective participants; and
- (d) matters relating to how participants or prospective participants are to engage with the Agency, the CEO and other specified persons.

57 Subsection 209(8) (table item 1, column headed “Description”, paragraph (d))

After “section 33”, insert “, other than paragraph 33(4)(a)”.

58 Subsection 209(8) (table item 1, column headed “Description”, paragraph (eb))

Repeal the paragraph, substitute:

- (eb) paragraph 47A(1)(b) and subsection 47A(6);
- (f) subsection 48(5);

59 Subsection 209(8) (table item 2, column headed “Description”, paragraph (ca))

Repeal the paragraph.

60 Subsection 209(8) (table item 3)

Repeal the item, substitute:

- | | | |
|---|--|---|
| 3 | Category C
National Disability
Insurance Scheme
rules | Rules made for the purposes of any of the following provisions:
(a) paragraph 20(2)(b);
(b) paragraph 33(4)(a);
(c) section 50J;
(d) paragraphs 89(1)(c) and (3)(c);
(e) subparagraph 90(3)(a)(ii);
(f) paragraph 100(6A)(a);
(g) section 204; |
|---|--|---|

- (h) subsection 204A(1);
- (i) paragraphs (2A)(c) and (d) of this section.

61 Subsection 209(8) (table item 3)

Repeal the item, substitute:

- | | | |
|---|--|--|
| 3 | Category C
National Disability
Insurance Scheme
rules | Rules made for the purposes of any of the following provisions: <ul style="list-style-type: none">(a) paragraph 20(2)(b);(b) paragraph 33(4)(a);(c) paragraph 47A(8)(a);(d) paragraph 48(8)(a);(e) subsection 49(2);(f) section 50J;(g) paragraphs 89(1)(c) and (3)(c);(h) subparagraph 90(3)(a)(ii);(i) paragraph 100(6A)(a);(j) subsection 174(3);(k) section 204;(l) subsection 204A(1);(m) paragraphs (2A)(c) and (d) of this section. |
|---|--|--|

63 Application provisions—requests

- (1) The amendments of sections 20 and 21, subsection 26(1) and item 1 of the table in subsection 99(1) of the *National Disability Insurance Scheme Act 2013* made by this Schedule apply in relation to an access request made on or after the commencement of this item.
- (2) The amendments of paragraphs 26(2)(b) and (3)(b) of the *National Disability Insurance Scheme Act 2013* made by this Schedule apply in relation to a request made under subsection 26(1) of that Act on or after the commencement of this item.

64 Application provisions—prospective participants or participants

- (1) The repeal of sections 32 and 32A of the *National Disability Insurance Scheme Act 2013* and the substitution of section 32 of that Act made by

this Schedule apply in relation to a person who becomes a participant on or after the commencement of this item.

- (2) The repeal and substitution of subsection 33(4) of the *National Disability Insurance Scheme Act 2013* made by this Schedule applies in relation to a participant's plan where the CEO commences facilitating the preparation of the plan on or after the commencement of this item.
- (3) Paragraph 50J(a) of the *National Disability Insurance Scheme Act 2013*, as inserted by this Schedule, applies in relation to a participant's plan where the CEO approves the statement of participant supports on or after the commencement of this item.
- (4) Paragraph 50J(b) of the *National Disability Insurance Scheme Act 2013*, as inserted by this Schedule, applies in relation to the following:
 - (a) a participant's plan that is in effect immediately before the commencement of this item;
 - (b) a participant's plan that comes into effect on or after that commencement.
- (5) Paragraph 50J(c) of the *National Disability Insurance Scheme Act 2013*, as inserted by this Schedule, applies in relation to decisions of the Administrative Appeals Tribunal made on or after the commencement of this item.

65 Application, saving and transitional provisions— prospective participants or participants

- (1) The amendments of sections 31, 50, 55, 78, 79 and 96 of the *National Disability Insurance Scheme Act 2013* made by this Schedule apply in relation to a variation that is made under subsection 47A(1) of that Act, or a reassessment that begins to be conducted under section 48, 49 or 49A of that Act, on or after the commencement of this item.
 - (2) Sections 31, 50, 55, 78, 79 and 96 of the *National Disability Insurance Scheme Act 2013*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to a review that began to be conducted under section 48 of that Act before, on or after that commencement.
 - (3) The amendment of paragraph 33(2)(c) of the *National Disability Insurance Scheme Act 2013* made by this Schedule applies in relation to
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a participant's plan where the CEO approves the statement of participant supports on or after the commencement of this item.

- (4) The amendments of section 37 of the *National Disability Insurance Scheme Act 2013* made by this Schedule, and section 47A of that Act as inserted by this Schedule, apply in relation to the following:
 - (a) a participant's plan that is in effect immediately before the commencement of this item;
 - (b) a participant's plan that comes into effect on or after that commencement.
- (5) Section 48 of the *National Disability Insurance Scheme Act 2013*, as substituted by this Schedule, applies in relation to a reassessment that begins to be conducted on or after the commencement of this item (whether on the CEO's own initiative or because of a request made on or after that commencement).
- (6) Subsections 48(1) to (3), section 49 and subsections 99(1) and 100(1A) and (5) of the *National Disability Insurance Scheme Act 2013*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to a request for a review made under subsection 48(1) of that Act before that commencement.
- (7) Subsections 48(4), (5) and (6) and section 49 of the *National Disability Insurance Scheme Act 2013*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to a review that began to be conducted before that commencement.
- (8) A participant's plan that is in effect immediately before the commencement of this item, with a review date that is on or after that commencement, has effect on and after that commencement as if that date were the plan's reassessment date.
- (9) A participant's plan that is in effect immediately before the commencement of this item, that specifies the circumstances in which the plan must be reviewed, has effect on and after that commencement as if those circumstances were circumstances in which the plan must be reassessed.

66 Application provisions—nominees

- (1) The amendment of subsection 89(1) of the *National Disability Insurance Scheme Act 2013* made by this Schedule applies in relation to a request referred to in paragraph 89(1)(b) of that Act that is made on or after the commencement of this item.
- (2) The amendment of subsection 89(3) of the *National Disability Insurance Scheme Act 2013* made by this Schedule applies in relation to a cancellation under that subsection on or after the commencement of this item, where the CEO was informed under paragraph 89(3)(b) of that Act on or after that commencement.
- (3) The repeal and substitution of paragraph 90(3)(a) of the *National Disability Insurance Scheme Act 2013* made by this Schedule applies in relation to a request made on or after the commencement of this item.

67 Application provisions—review of decisions

- (1) The amendment of subsection 100(1) of the *National Disability Insurance Scheme Act 2013* made by this Schedule applies in relation to a reviewable decision made on or after the commencement of this item.
- (2) The amendment of subsection 100(6) of the *National Disability Insurance Scheme Act 2013* made by this Schedule, and subsection 100(6A) of that Act as inserted by this Schedule, apply in relation to the following:
 - (a) a request for review that is received on or after the commencement of this item;
 - (b) a period applicable under paragraph 21(3)(a) or (b) of that Act that ends on or after that commencement.

68 Application provisions—review of decisions

- (1) Paragraph 101(2)(a) of the *National Disability Insurance Scheme Act 2013*, as added by this Schedule, applies in relation to a request for review made on or after the commencement of this item.
- (2) Paragraph 103(2)(a) of the *National Disability Insurance Scheme Act 2013*, as added by this Schedule, applies in relation to an application for review made on or after the commencement of this item.

69 Application provision—Agency’s quarterly report

The amendments of section 174 of the *National Disability Insurance Scheme Act 2013* made by this Schedule apply in relation to a period ending on or after the commencement of this item.

70 Application provision—report by Commonwealth Ombudsman

Section 204A of the *National Disability Insurance Scheme Act 2013*, as added by this Schedule, applies in relation to a financial year ending on or after the commencement of this item.

71 Transitional provision—time frames for decision making by persons other than the CEO

National Disability Insurance Scheme rules made for the purposes of subsection 204(2) of the *National Disability Insurance Scheme Act 2013* and that are in force immediately before the commencement of this item continue in force on and after that commencement as if they had been made for the purposes of section 204 of that Act.

Schedule 2—Flexibility measures

National Disability Insurance Scheme Act 2013

1 Subsection 4(2)

Omit “to the extent of their ability”.

2 Subsection 4(8)

Omit “, to the full extent of their capacity”.

3 After subsection 4(9)

Insert:

- (9A) People with disability are central to the National Disability Insurance Scheme and should be included in a co-design capacity.

4 After subsection 4(12)

Insert:

- (12A) The relationship between people with disability and their families and carers is to be recognised and respected.

5 Subsection 4(15)

Repeal the subsection, substitute:

- (15) In exercising their right to choice and control, people with disability require access to a diverse and sustainable market for disability supports in which innovation, quality, continuous improvement, contemporary best practice and effectiveness in the provision of those supports is promoted.

6 Paragraph 5(d)

Omit “and the gender,”, substitute “and the sex, gender identity, sexual orientation and intersex status,”.

7 Section 9

Insert:

approved form, in relation to a provision of this Act, means a form approved under section 9A for the purposes of that provision.

8 After section 9

Insert:

9A Approved forms

- (1) The CEO may, in writing, approve a form for the purposes of a provision of this Act.
- (2) The CEO must publish each approved form on the Agency's website.

9 Section 14

Before "The", insert "(1)".

10 Paragraph 14(a)

Repeal the paragraph, substitute:

- (a) for the purposes of enabling those persons or entities to provide information in relation to disability and disability supports and services; or
- (aa) for the purposes of enabling those persons or entities to provide assistance in building capacity within the community in connection with the provision of goods and services to people with disability and their families and carers; or
- (ab) for the purposes of enabling those persons or entities to assist people with disability to realise their potential for physical, social, emotional and intellectual development; or
- (ac) for the purposes of enabling those persons or entities to assist people with disability, and their families and carers, to participate in social and economic life; or

11 At the end of section 14

Add:

- (2) Without limiting subsection (1), the Agency may provide funding to a person or entity:
 - (a) to assist one or more participants to receive supports; or

(b) to assist a participant who is a child aged under 7 to access supports, before the child's plan comes into effect, in relation to the child's disability needs (whether those needs arise because the child meets the disability requirements or meets the early intervention requirements).

(3) The National Disability Insurance Scheme rules may set out matters to which the Agency must have regard in deciding whether to provide funding under subsection (2).

12 Before subsection 17A(1)

Insert:

(1A) In performing the CEO's functions and exercising the CEO's powers under this Chapter, the CEO must have regard to the principles in this section.

13 Paragraph 17A(3)(b)

Omit “, to the extent of their capacity”.

14 Paragraph 17A(3)(c)

Omit “, to the extent of their ability”.

15 At the end of section 17A

Add:

(4) The principles in this section are in addition to the principles in section 4 to which the CEO is to have regard in performing the CEO's functions and exercising the CEO's powers under this Act.

16 Paragraph 24(1)(a)

Omit “to one or more impairments attributable to a psychiatric condition”, substitute “the person has one or more impairments to which a psychosocial disability is attributable”.

17 Paragraph 24(1)(c)

Omit “, or psychosocial functioning in undertaking,”.

18 At the end of section 24

Add:

- (3) For the purposes of subsection (1), an impairment or impairments that are episodic or fluctuating may be taken to be permanent, and the person may be taken to be likely to require support under the National Disability Insurance Scheme for the person's lifetime, despite the episodic or fluctuating nature of the impairments.
- (4) Subsection (3) does not limit subsection (2).

19 Subparagraph 25(1)(a)(ii)

Repeal the subparagraph, substitute:

- (ii) has one or more identified impairments to which a psychosocial disability is attributable and that are, or are likely to be, permanent; or

20 After subsection 25(1)

Insert:

- (1A) For the purposes of subparagraph (1)(a)(i) or (ii), an impairment or impairments that are episodic or fluctuating may be taken to be permanent despite the episodic or fluctuating nature of the impairments.

22 Paragraph 27(a)

Omit "25(a)(i) or (ii)", substitute "25(1)(a)(i) or (ii)".

23 Paragraph 27(b)

Omit ", or psychosocial functioning of a person in undertaking,".

25 After paragraph 31(c)

Insert:

- (ca) where relevant, recognise and respect the relationship between participants and their families and carers; and

26 Paragraph 31(d)

Omit "where possible,".

27 Subsection 42(1)

After “means”, insert “doing one or more of the following”.

28 Paragraph 42(1)(a)

Omit “and”.

29 Paragraph 42(1)(b)

Repeal the paragraph, substitute:

- (b) receiving any funding provided by the Agency;
- (ba) managing any funding provided by the Agency;

30 Paragraph 43(1)(c)

Omit “a person specified by”.

31 Subsections 43(2) to (5)

Repeal the subsections, substitute:

- (2) If a participant makes a plan management request, the statement of participant supports in the plan must give effect to the request, except to the extent set out in subsections (3) to (6).
- (3) If:
 - (a) a participant makes a plan management request covered by paragraph (1)(a); and
 - (b) subsection 44(1) applies in relation to the participant;the statement of participant supports in the plan must provide for the funding for supports under the plan:
 - (c) if paragraph 44(1)(a) applies—to be wholly managed by the Agency; and
 - (d) if paragraph 44(1)(b) applies—to be managed by the Agency to the extent covered by that paragraph.
- (4) If:
 - (a) a participant makes a plan management request covered by paragraph (1)(b); and
 - (b) subsection 44(2) applies in relation to the registered plan management provider;

the statement of participant supports in the plan must provide for the funding for supports under the plan to be managed by the Agency to the extent covered by that subsection.

- (5) If:
- (a) the participant has a plan nominee; and
 - (b) subsection 44(2A) does not apply in relation to the nominee; and
 - (c) the terms of the plan nominee's appointment deal with the management of certain funding for supports under the plan;
- the statement of participant supports in the plan must provide for that funding to be managed in accordance with those terms.
- (6) If:
- (a) the participant has a plan nominee; and
 - (b) subsection 44(2A) applies in relation to the nominee; and
 - (c) the terms of the plan nominee's appointment deal with the management of certain funding for supports under the plan;
- the statement of participant supports in the plan must provide for that funding:
- (d) if paragraph 44(2A)(a) applies—to be wholly managed by the Agency; and
 - (e) if paragraph 44(2A)(b) applies—to be managed by the Agency to the extent covered by that paragraph.
- (7) Subsection (3) or (4) does not apply to funding to the extent that subsection (5) or (6) applies to the funding.

No plan management request

- (8) If a participant does not make a plan management request, the statement of participant supports in the plan must provide that the funding for supports under the plan is to be wholly managed by the Agency.

32 Section 44 (heading)

Repeal the heading, substitute:

44 Circumstances in which persons must not manage funding**33 Subsections 44(1) to (2A)**

Repeal the subsections, substitute:

Participant

- (1) For the purposes of paragraph 43(3)(b), this subsection applies in relation to a participant if:
- (a) the participant is an insolvent under administration; or
 - (b) the CEO is satisfied that the participant's management of the funding for supports under the plan to a particular extent would:
 - (i) present an unreasonable risk to the participant; or
 - (ii) permit the participant to manage matters that are prescribed by the National Disability Insurance Scheme rules as being matters that must not be managed by a participant.

Registered plan management provider

- (2) For the purposes of paragraph 43(4)(b), this subsection applies in relation to a registered plan management provider if the CEO is satisfied that the provider's management of the funding for supports under the plan to a particular extent would present an unreasonable risk to the participant.

Plan nominee

- (2A) For the purposes of paragraphs 43(5)(b) and (6)(b), this subsection applies in relation to a plan nominee if:
- (a) the plan nominee is an insolvent under administration; or
 - (b) the CEO is satisfied that the plan nominee's management of the funding for supports under the plan to a particular extent would present an unreasonable risk to the participant.

34 Subsection 44(3)

Omit "either of", substitute "any of".

35 After paragraph 44(3)(a)

Insert:

- (aa) a registered plan management provider managing the funding for supports under the plan;

36 Section 45

Repeal the section, substitute:

45 Payment of amounts payable under the National Disability Insurance Scheme

- (1) An amount payable under the National Disability Insurance Scheme in respect of a participant's plan is to be paid:
 - (a) to the person determined by the CEO; and
 - (b) either:
 - (i) in accordance with the National Disability Insurance Scheme rules prescribed for the purposes of this subparagraph; or
 - (ii) if there are no such rules—in the manner determined by the CEO.
- (2) Paragraph (1)(b) extends to dealing with:
 - (a) whether amounts are to be paid in instalments or as lump sums; and
 - (b) if amounts are to be paid in instalments—the amounts of those instalments; and
 - (c) the timing of payments of amounts.
- (3) The National Disability Insurance Scheme rules may provide that an amount is not payable to a person until the person nominates a bank account into which the amount is to be paid.

37 At the end of section 46

Add:

- (3) The National Disability Insurance Scheme rules may make provision for and in relation to the retention of records by NDIS providers that receive NDIS amounts on behalf of participants,

including requiring that prescribed records be retained for a prescribed period.

38 Section 47 (heading)

Repeal the heading, substitute:

47 Variation of participant's plan—change of participant's statement of goals and aspirations

39 Subsection 47(2)

Repeal the subsection, substitute:

- (2) If a participant gives a changed version of the participant's statement of goals and aspirations to the CEO, the participant's plan is taken to have been varied so that it includes that changed version.

40 Subsection 47(3)

Omit "new plan", substitute "varied plan".

41 Subsection 60(1)

Repeal the subsection.

42 Subsection 60(3)

Omit "subsections (1) and (2), the collection, recording", substitute "subsection (2), the recording".

43 Section 61

Repeal the section.

44 After subsection 90(3)

Insert:

Nominee no longer has guardianship etc.

- (3A) The CEO may, by written instrument, cancel the appointment of a nominee of a participant if:

- (a) at the time the appointment was made, the nominee was a person who, under a law of the Commonwealth, a State or a Territory:
 - (i) had guardianship of the participant; or
 - (ii) was appointed by a court, tribunal, board or panel (however described) who had power to make decisions for the participant and whose responsibilities in relation to the participant were relevant to the duties of a nominee; and
- (b) the nominee no longer has guardianship of the participant or no longer holds the appointment referred to in subparagraph (a)(ii) (as the case requires).

45 At the end of paragraph 104(3)(f)

Add “or carers”.

46 Subsection 127(2)

After “that the person”, insert “is a person with disability, is a person that has lived experience with disability or is a person that”.

47 Subsection 127(6)

Repeal the subsection, substitute:

Board members to have appropriate balance of characteristics

- (6) In appointing the Board members, the Minister must ensure that the Board members collectively possess an appropriate balance of characteristics mentioned in subsection (2).

48 Subsection 129(4)

After “that the person”, insert “is a person with disability, is a person that has lived experience with disability or is a person that”.

49 After subsection 147(2)

Insert:

Principal member

- (3) The Minister must not appoint a person as the Principal Member unless the person is a Board member.

50 At the end of subsection 155(2)

Add:

- ; or (e) in the case of the Principal Member—the Principal Member is not a Board member.

51 Paragraph 182(2)(c)

Repeal the paragraph, substitute:

- (c) the payment was made in respect of a service funded under a participant's plan and the participant died before the service was provided.

52 Subsection 209(3)

Repeal the subsection, substitute:

- (3) When making National Disability Insurance Scheme rules, the Minister must have regard to:
- (a) the objects and principles of this Act; and
 - (b) the need to ensure the financial sustainability of the National Disability Insurance Scheme.

53 Subsection 209(8) (table item 1, column headed "Description", before paragraph (a))

Insert:

- (aa) subsection 14(3);

54 Application and transitional provisions—participants and prospective participants

- (1) The amendments of sections 24 and 25 of the *National Disability Insurance Scheme Act 2013* made by this Schedule apply in relation to the following:
- (a) an access request made on or after the commencement of this item;

- (b) an access request that was pending immediately before that commencement;
 - (c) a revocation under section 30 of that Act made on or after that commencement.
- (2) The amendments of sections 43 and 44 of the *National Disability Insurance Scheme Act 2013* made by this Schedule apply in relation to a plan management request made on or after the commencement of this item.
- (3) Subsection 43(8) of the *National Disability Insurance Scheme Act 2013*, as substituted by this Schedule, applies in relation to a participant's plan where the CEO approves the statement of participant supports on or after the commencement of this item.
- (4) National Disability Insurance Scheme rules made for the purposes of paragraph 44(2)(b) of the *National Disability Insurance Scheme Act 2013* and that are in force immediately before the commencement of this item continue in force on and after that commencement as if they had been made for the purposes of subparagraph 44(1)(b)(ii) of that Act, as substituted by this Schedule.
- (5) The repeal and substitution of section 45 of the *National Disability Insurance Scheme Act 2013* made by this Schedule applies in relation to an amount payable under the National Disability Insurance Scheme on or after the commencement of this item.
- (6) The repeal and substitution of subsection 47(2) of the *National Disability Insurance Scheme Act 2013* and the amendment of subsection 47(3) of that Act made by this Schedule apply in relation to a changed version of a participant's statement of goals and aspirations given to the CEO on or after the commencement of this item.

55 Application provision—nominees

Subsection 90(3A) of the *National Disability Insurance Scheme Act 2013*, as inserted by this Schedule, applies in relation to the cancellation of the appointment of a nominee on or after the commencement of this item (whether the nominee was appointed before, on or after that commencement).

56 Application provisions—appointments

- (1) The amendments of sections 127, 129 and 147 of the *National Disability Insurance Scheme Act 2013* made by this Schedule apply in relation to an appointment made on or after the commencement of this item.
- (2) The amendment of section 155 of the *National Disability Insurance Scheme Act 2013* made by this Schedule applies in relation to an appointment made before, on or after the commencement of this item.

57 Application provision—debts

The repeal and substitution of paragraph 182(2)(c) of the *National Disability Insurance Scheme Act 2013* made by this Schedule applies in relation to payments made on or after the commencement of this item.

Schedule 3—Full scheme amendments

Part 1—Main amendments

National Disability Insurance Scheme Act 2013

1 Paragraphs 3(1)(d) and (2)(a)

Omit “launch”.

2 Paragraph 3(3)(a)

Repeal the paragraph.

3 Subsection 4(17)

Repeal the subsection, substitute:

- (17) It is the intention of the Parliament that the Ministerial Council, the Minister, the Board, the CEO, the Commissioner and any other person or body is to perform functions and exercise powers under this Act in accordance with these principles, having regard to the need to ensure the financial sustainability of the National Disability Insurance Scheme.

4 Section 8

Omit:

Depending on where a person with disability lives, he or she may receive supports or services from registered providers of supports (Part 3 of Chapter 4) or from registered NDIS providers (Part 3A of Chapter 4). Supports and services may also be received from providers who are not registered.

This Act also provides for the establishment of the National Disability Insurance Scheme Launch Transition Agency (Chapter 6).

substitute:

A person with disability may receive supports or services from registered NDIS providers (Part 3A of Chapter 4). Supports and services may also be received from providers who are not registered.

This Act also creates the National Disability Insurance Agency (Chapter 6).

5 Section 8

Omit:

(b) review of the Act; and

6 Section 9 (definition of *Agency*)

Repeal the definition, substitute:

Agency means the National Disability Insurance Agency referred to in subsection 117(1).

7 Section 9 (definition of *Board*)

Repeal the definition, substitute:

Board means the Board of the National Disability Insurance Agency referred to in section 123.

8 Section 9 (definition of *FaHCSIA agreement*)

Repeal the definition.

9 Section 9 (definition of *host jurisdiction*)

Repeal the definition, substitute:

host jurisdiction means the following:

- (a) each of the States;
- (b) the Australian Capital Territory;
- (c) the Northern Territory.

10 Section 9 (definition of *National Disability Insurance Scheme*)

Repeal the definition, substitute:

National Disability Insurance Scheme means the arrangements set out in Chapters 2 and 3.

11 Section 9 (definition of *National Disability Insurance Scheme launch*)

Repeal the definition.

12 Section 9 (definition of *participant*)

Omit “launch”.

13 Section 9 (definition of *participating jurisdiction*)

Repeal the definition.

14 Section 9 (definition of *prescribed area*)

Repeal the definition.

15 Section 9 (definition of *registered plan management provider*)

Repeal the definition, substitute:

registered plan management provider means an NDIS provider who is registered to manage the funding for supports under plans as mentioned in paragraph 73E(2)(a).

16 Section 9 (definition of *registered provider of supports*)

Repeal the definition.

17 Sections 10 and 10A

Repeal the sections.

18 Section 18

Omit “launch”.

19 Paragraph 21(2)(a)

Repeal the paragraph.

20 At the end of subsection 21(2)

Add:

; (d) the person satisfies any other requirements prescribed by the National Disability Insurance Scheme rules for the purposes of this paragraph.

21 Section 22

Repeal the section, substitute:

22 Age requirements

A person *meets the age requirements* if the person was aged under 65 when the access request in relation to the person was made.

22 Subparagraph 23(1)(b)(iii)

Omit “holder; and”, substitute “holder.”.

23 Paragraph 23(1)(c)

Repeal the paragraph.

24 Subsection 23(3)

Repeal the subsection.

25 Subsection 28(1)

Omit “launch”.

26 Subsection 29(1)

Omit “launch”.

27 Subsection 30(1)

Omit “launch”.

28 Subsection 33(6)

Repeal the subsection, substitute:

- (6) To the extent that the funding for supports under a participant's plan is managed by the Agency, the plan must provide that the supports are to be provided only by a registered NDIS provider.

29 Paragraphs 55(2)(i) and (j)

Repeal the paragraphs.

30 Part 3 of Chapter 4

Repeal the Part.

31 Division 1 of Part 3A of Chapter 4

Repeal the Division.

32 Paragraph 73E(1)(b)

Repeal the paragraph.

33 Subsection 99(1) (table items 7 and 8)

Repeal the items.

34 Chapter 6 (heading)

Repeal the heading, substitute:

**Chapter 6—National Disability Insurance
Agency**

35 Part 1 of Chapter 6 (heading)

Repeal the heading, substitute:

Part 1—National Disability Insurance Agency

36 Section 117 (heading)

Repeal the heading, substitute:

117 National Disability Insurance Agency

37 Subsection 117(1)

Repeal the subsection, substitute:

- (1) The body that was established by this section as previously in force by the name National Disability Insurance Scheme Launch Transition Agency is now to be known as the National Disability Insurance Agency.

Note: Subsection 25B(1) of the *Acts Interpretation Act 1901* provides that a body whose name is altered by an Act continues in existence under the new name so that its identity is not affected.

38 Section 123

Repeal the section, substitute:

123 Board of the National Disability Insurance Agency

The body that was established by this section as previously in force and known as the Board of the National Disability Insurance Scheme Launch Transition Agency is now to be known as the Board of the National Disability Insurance Agency.

Note: Subsection 25B(1) of the *Acts Interpretation Act 1901* provides that a body whose name is altered by an Act continues in existence under the new name so that its identity is not affected.

39 Paragraph 144(1)(c)

Omit “launch”.

40 Paragraph 144(3)(b)

Repeal the paragraph.

41 Subsections 160(6) to (8)

Repeal the subsections.

42 Section 171A

Repeal the section.

43 Subsection 174(5)

Repeal the subsection.

44 Subparagraph 176(2)(a)(ii)

Omit “Council; or”, substitute “Council;”.

45 Subparagraph 176(2)(a)(iii)

Repeal the subparagraph.

46 Section 179

Omit “launch”.

47 Subsection 180D(5)

Repeal the subsection.

48 Paragraphs 203(1)(a) and (b)

Repeal the paragraphs.

49 Part 4 of Chapter 7

Repeal the Part.

50 Subsection 209(5)

Repeal the subsection, substitute:

- (5) The Minister must not make Category B National Disability Insurance Scheme rules relating to an area, law or program of a host jurisdiction unless the host jurisdiction has agreed to the making of the rules.

51 Subsection 209(8) (table item 1, column headed “Description”, paragraph (b))

Repeal the paragraph.

52 Subsection 209(8) (table item 1, column headed “Description”, paragraphs (ga) to (gc))

Repeal the paragraphs.

53 Subsection 209(8) (table item 2, column headed “Description”, paragraphs (a) to (c))

Repeal the paragraphs, substitute:

- (a) paragraphs 21(2)(b) and (d);

54 Schedule 1

Repeal the Schedule.

55 Application provisions

- (1) The amendments of sections 18 and 21 of the *National Disability Insurance Scheme Act 2013*, the repeal and substitution of section 22 of that Act and the amendments of section 23 of that Act made by this Part apply in relation to an access request made on or after the commencement of this item.
- (2) The repeal and substitution of subsection 33(6) of the *National Disability Insurance Scheme Act 2013* made by this Part applies in relation to a participant's plan where the CEO approves the statement of participant supports on or after the commencement of this item.
- (3) The repeal of paragraph 73E(1)(b) of the *National Disability Insurance Scheme Act 2013* made by this Part applies in relation to the following:
 - (a) an application made under section 73C of that Act on or after the commencement of this item;
 - (b) an application made under that section that was pending immediately before that commencement.

56 Pending access requests

A request made by a person under section 18 of the *National Disability Insurance Scheme Act 2013* that was pending immediately before the commencement of this item has effect on and after that commencement as if it were a request by the person to become a participant in the National Disability Insurance Scheme.

57 Existing participants in the National Disability Insurance Scheme launch

- (1) A person who is a participant in the National Disability Insurance Scheme launch immediately before the commencement of this item is taken on and after that commencement to be a participant in the National Disability Insurance Scheme.
- (2) Subitem (1) does not limit section 29 or 30 of the *National Disability Insurance Scheme Act 2013* (about when a person ceases to be a participant).

58 Board members

A person holding office as a member of the Board of the National Disability Insurance Scheme Launch Transition Agency immediately before the commencement of this item continues, on and after that commencement, to hold office as a member of the Board of the National Disability Insurance Agency for the balance of the person's term of appointment that remains immediately before that commencement.

59 Chief Executive Officer

The person holding office as the Chief Executive Officer of the National Disability Insurance Scheme Launch Transition Agency immediately before the commencement of this item continues, on and after that commencement, to hold office as the Chief Executive Officer of the National Disability Insurance Agency for the balance of the person's term of appointment that remains immediately before that commencement.

60 Staff

A person who was a member of the staff of the National Disability Insurance Scheme Launch Transition Agency immediately before the commencement of this item continues, on and after that commencement, as a member of the staff of the National Disability Insurance Agency.

61 Transitional rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Part.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;

- (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.
- (3) This Part (other than subitem (2)) does not limit the rules that may be made for the purposes of subitem (1).

Part 2—Consequential amendments

DisabilityCare Australia Fund Act 2013

62 Section 4 (definition of *National Disability Insurance Scheme Launch Transition Agency*)

Repeal the definition.

*[Minister's second reading speech made in—
House of Representatives on 28 October 2021
Senate on 30 March 2022]*

(154/21)

50 *National Disability Insurance Scheme Amendment (Participant Service
Guarantee and Other Measures) Act 2022* No. 27, 2022