



Australian Government

Department of Health

# **Draft National Disability Insurance Scheme (Getting the NDIS Back on Track No. 1) (Transition to New Framework Plans) Transitional Rules**

## **Explanatory Document**

Note that this explanatory document is for the purposes of consultation only and will form the basis of the explanatory statement for this instrument. Further updates will be made to the document following further consultation, development of other related rules and to meet the requirements of all explanatory statements.

## Purpose of the Instrument

This Instrument will determine, for the purposes of subsection 32B(1) of the *National Disability Insurance Scheme Act 2013* (Act), classes of participants who will receive new framework plans and the period within which the Chief Executive Officer (CEO) of the National Disability Insurance Agency (NDIA, Agency) must give a notice of transition to each participant within that class.

## Background

The *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024* (the Amending Act) provided the basis for critical reforms to the National Disability Insurance Scheme (NDIS). In particular, the Amending Act introduced into the Act the concept of a new budget-based planning framework in which participants get 'new framework plans'.

Section 32B of the Act allows NDIS rules to specify classes of participants that will have new framework plans and the period within which the CEO must give a notice to participants that they will receive a new framework plan. Once a class of participants has been prescribed, the CEO must give a participant a notice that they will have a new framework plan. This must happen within the time specified in NDIS rules.

The CEO cannot start to facilitate the preparation of a new framework plan for a participant until after they have been provided with a notice that they will have a new framework plan. This rule will allow the gradual roll out of new framework plans.

Once a participant has received a notice that they will have a new framework plan, the CEO will start to facilitate the preparation of the plan. The notice to have a new framework plan is not a reviewable decision and once issued a participant will proceed through the new framework planning process.

## Outline

Participants aged 16 or older will start transitioning to new framework plans from 1 July 2026 after the *National Disability Insurance Scheme (Reasonable and Necessary Budget Method) Rules* and *National Disability Insurance Scheme (Support Needs Assessment) Rules* have been made. Participants under the age of 16 will start transitioning to new framework plans from 1 July 2027.

The age cohorts align with the age range for the use of the I-CAN assessment tool which can only be administered to individuals who are aged 16 years or over. The delayed transition for children will allow the NDIA to develop an appropriate needs assessment process for children and to enable foundational supports and the proposed Commonwealth model of Thriving Kids to commence for younger children.

The two classes of participants will be broken down further administratively as transition planning continues. The NDIA will continue to work with States and Territories as well as the broader disability community, including participants, families and carers and representative organisations to monitor the progress of transition to new framework plans and identify

appropriate cohorts for transition. This will depend on operational considerations as well as feedback from participants and the community on the process and progress of transition.

Consistent with sub-paragraph 35C(c)(i) of the Act, this Instrument provides that all participants must receive a notice that they will transition to a new framework plan within 5 years of the commencement of the Amending Act (which is by 2 October 2029). If it is necessary or appropriate to extend the transition timeframe, the 5-year period can be extended through category A NDIS rules made in accordance with subparagraph 32C(c)(ii) of the Act.

## Detailed explanation

### Name

The Instrument will be called the *National Disability Insurance Scheme (Getting the NDIS Back on Track No. 1) (Transition to New Framework Plans) Transitional Rule*.

### Commencement

The Instrument will commence on the day after it is registered on the federal register of legislation.

### Authority

The Instrument will be made under item 138 of Schedule 1 to the Amending Act.

Subitem 138(1) provides that 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 the Amending Act.

Item 139 of the Amending Act provides that certain NDIS rules can be made as transitional rules under item 138 if certain procedural steps will be taken.

### Definitions

A number of expressions to be used in this Instrument are defined in the Act, including the following:

- (a) CEO;
- (b) participant.

This also includes the following key definitions for the purpose of the instrument:

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

**group 1 participant** means a participant who is aged 16 years or older on 1 July 2026.

**group 2 participant** means a participant who has not yet attained the age of 16 years on 1 July 2027.

### Transition to new framework plans – group 1 participants

This Instrument will provide that group 1 participants (that is participants who are aged 16 years or older on 1 July 2026) will receive a notice that they will transition to a new framework plan during the period commencing on 1 July 2026 and ending on 2 October 2029.

### **Transition to new framework plans – group 2 participants**

The Instrument will provide that group 2 participants (that is participants who have not attained the age of 16 years on 1 July 2027) will receive a notice that they will transition to a new framework plan during the period commencing on 1 July 2027 and ending on 2 October 2029.