

Important Sections of the NDIS ACT

NATIONAL DISABILITY INSURANCE SCHEME ACT 2013 - SECT 24

Disability requirements

(1) A person *meets the disability requirements* if:

(a) the person has a disability that is attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments or to one or more impairments attributable to a psychiatric condition; and

(b) the impairment or impairments are, or are likely to be, permanent;
and

(c) the impairment or impairments result in substantially reduced functional capacity to undertake, or psychosocial functioning in undertaking, one or more of the following activities:

(i) communication;

(ii) social interaction;

(iii) learning;

(iv) mobility;

(v) self-care;

(vi) self-management; and

(d) the impairment or impairments affect the person's capacity for social or economic participation; and

(e) the person is likely to require support under the [National Disability Insurance Scheme](#) for the person's lifetime.

(2) For the purposes of [subsection](#) (1), an impairment or impairments that vary in intensity may be permanent, and the person is likely to require support under the [National Disability Insurance Scheme](#) for the person's lifetime, despite the variation.

NATIONAL DISABILITY INSURANCE SCHEME ACT 2013 - SECT 25

Early intervention requirements

(1) A person meets the early intervention requirements if:

(a) the person:

(i) has one or more identified intellectual, cognitive, neurological, sensory or physical impairments that are, or are likely to be, permanent; or

(ii) has one or more identified impairments that are attributable to a psychiatric condition and are, or are likely to be, permanent; or

(iii) is a child who has developmental delay; and

(b) the CEO is satisfied that provision of early intervention supports for the person is likely to benefit the person by reducing the person's future needs for supports in relation to disability; and

(c) the CEO is satisfied that provision of early intervention supports for the person is likely to benefit the person by:

(i) mitigating or alleviating the impact of the person's impairment upon the functional capacity of the person to undertake communication, social interaction, learning, mobility, self-care or self-management; or

(ii) preventing the deterioration of such functional capacity; or

(iii) improving such functional capacity; or

(iv) strengthening the sustainability of informal supports available to the person, including through building the capacity of the person's carer.

Note: In certain circumstances, a person with a degenerative condition could meet the early intervention requirements and therefore become a participant.

(2) The CEO is taken to be satisfied as mentioned in [paragraphs](#) (1)(b) and (c) if one or more of the person's impairments are prescribed by the [National Disability Insurance Scheme rules](#) for the purposes of this [subsection](#).

(3) Despite [subsections](#) (1) and (2), the person does not *meet the early intervention requirements* if the CEO is satisfied that early intervention support for the person is not most appropriately funded or provided through the [National Disability Insurance Scheme](#), and is more appropriately funded or provided through other general systems of service delivery or support services offered by a person, [agency](#) or body, or through systems of service delivery or support services offered:

(a) as part of a universal service obligation; or

(b) in accordance with reasonable adjustments required under a law dealing with discrimination on the basis of disability.

NATIONAL DISABILITY INSURANCE SCHEME ACT 2013 - SECT 27

National Disability Insurance Scheme rules relating to disability requirements and early intervention requirements

The [National Disability Insurance Scheme rules](#) may prescribe circumstances in which, or criteria to be applied in assessing whether:

(a) one or more impairments are, or are likely to be, permanent for the purposes of [paragraph](#) 24(1)(b) or subparagraph 25(a)(i) or (ii); or

(b) one or more impairments result in substantially reduced functional capacity of a person to undertake, or psychosocial functioning of a person in undertaking, one or more activities for the purposes of [paragraph](#) 24(1)(c); or

(c) one or more impairments affect a person's capacity for social and economic participation for the purposes of [paragraph](#) 24(1)(d); or

(d) the provision of early intervention [supports](#) is likely to benefit a person by reducing the person's future needs for [supports](#) in relation to disability for the purposes of [paragraph](#) 25(1)(b); or

(e) the provision of early intervention [supports](#) is likely to benefit a person by mitigating, alleviating or preventing the deterioration of the person's functional capacity to undertake one or more of the activities for the purposes of subparagraph 25(1)(c)(i) or (ii), or improving such functional capacity for the purposes of subparagraph 25(1)(c)(iii); or

(f) the provision of early intervention [supports](#) is likely to benefit a person by strengthening the sustainability of the informal [supports](#) available to the person, including through building the capacity of the person's [carer](#) for the purposes of subparagraph 25(1)(c)(iv).

NATIONAL DISABILITY INSURANCE SCHEME ACT 2013 - SECT 33

Matters that must be included in a participant's plan

(1) A [participant's plan](#) must include a statement (the [participant's statement of goals and aspirations](#)) prepared by the [participant](#) that specifies:

(a) the goals, objectives and aspirations of the [participant](#); and

(b) the environmental and personal context of the [participant's](#) living, including the [participant's](#):

(i) living arrangements; and

(ii) informal community [supports](#) and other community [supports](#); and

(iii) social and economic participation.

(2) A [participant's plan](#) must include a statement (the [statement of participant supports](#)), prepared with the [participant](#) and approved by the CEO, that specifies:

(a) the [general supports](#) (if any) that will be provided to, or in relation to, the [participant](#); and



(b) the reasonable and necessary [supports](#) (if any) that will be funded under the [National Disability Insurance Scheme](#); and

(c) the date by which, or the circumstances in which, the [Agency](#) must review the [plan](#) under Division 4; and

(d) the management of the funding for [supports](#) under the [plan](#) (see also Division 3); and

(e) the management of other aspects of the [plan](#).

(3) The [supports](#) that will be funded or provided under the [National Disability Insurance Scheme](#) may be specifically identified in the [plan](#) or described generally, whether by reference to a specified purpose or otherwise.

(4) The CEO must endeavour to decide whether or not to approve the [statement of participant supports](#) as soon as reasonably practicable, including what is reasonably practicable having regard to [section 36](#) (information and reports).

(5) In deciding whether or not to approve a [statement of participant supports](#) under [subsection](#) (2), 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 his or her [plan](#) to the extent that he or she wishes to do so; and

(f) have regard to the operation and effectiveness of any previous [plans](#) of the [participant](#).



(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) for [supports](#) provided to a [participant](#) in a [participating jurisdiction](#)--a [registered NDIS provider](#); or

(b) otherwise--a [registered provider of supports](#).

(7) A [participant's plan](#) may include additional matters, including such additional matters as are prescribed by the [National Disability Insurance Scheme rules](#).

Note: For example, a [participant's plan](#) may include arrangements for ongoing contact with the [Agency](#).

(8) A [participant's](#) statement of goals and aspirations need not be prepared by the [participant](#) in writing, but if it is prepared other than in writing, the [Agency](#) must record it in writing.

Note: [Section 38](#) requires a copy of a [participant's plan](#) to be provided to him or her.

NATIONAL DISABILITY INSURANCE SCHEME ACT 2013 - SECT 34

Reasonable and necessary supports

(1) For the purposes of specifying, in a [statement of participant supports](#), the [general supports](#) that will be provided, and the reasonable and necessary [supports](#) that will be funded, the CEO must be satisfied of all of the following in relation to the funding or provision of each such support:

(a) the support will assist the [participant](#) to pursue the goals, objectives and aspirations included in the [participant's](#) statement of goals and aspirations;

(b) the support will assist the [participant](#) to undertake activities, so as to facilitate the [participant's](#) social and economic participation;



(c) the support represents value for money in that the costs of the support are reasonable, relative to both the benefits achieved and the cost of alternative support;

(d) the support will be, or is likely to be, effective and beneficial for the [participant](#), having regard to current good practice;

(e) the funding or provision of the support takes account of what it is reasonable to expect families, [carers](#), informal networks and the community to provide;

(f) the support is most appropriately funded or provided through the [National Disability Insurance Scheme](#), and is not more appropriately funded or provided through other general systems of service delivery or support services offered by a person, [agency](#) or body, or systems of service delivery or support services offered:

(i) as part of a universal service obligation; or

(ii) in accordance with reasonable adjustments required under a law dealing with discrimination on the basis of disability.

(2) The [National Disability Insurance Scheme rules](#) may prescribe methods or criteria to be applied, or matters to which the CEO is to have regard, in deciding whether or not he or she is satisfied as mentioned in any of [paragraphs](#) (1)(a) to (f).