30 June 2022

Earlier this year, the Australian Parliament passed changes to the NDIS legislation to improve the Scheme.

The National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Act 2022 will enable the NDIA to make processes easier and better for NDIS participants.

From 1 July, when participants and their authorised representatives ask for a change to their NDIS plan, the Agency will be able to do this in some circumstances without having to replace the current plan with a new one. This will be called a plan variation.

These variations will help participants access new supports quickly without having to go through a full plan reassessment.

Read more about plan variations in the table and Frequently Asked Questions below.

We will also start using the term ‘plan reassessment’ instead of ‘plan review’ to avoid confusion with an internal review of decisions at the request of a participant (known as a review of reviewable decisions).

Participants and authorised representatives will still have the right to appeal our decisions through the current internal and external review processes.

You can find a summary of the plan reassessments and variations in Changing your plan.

You can also read more in Our Guides – Changing your plan .

Other changes to the NDIS Act that will start on 1 July include:

- Recognising the importance of carers and family in the principles of the NDIS Act.
- Adding lived experience of disability as a consideration for membership of the NDIS Board.
- Clarifying that episodic and fluctuating impairments can be considered permanent when determining eligibility to the Scheme, including for people with psychosocial disability.
- Putting risk assessments in place for participants who want to use a plan manager to purchase supports from unregistered providers.

We are progressively updating information on our website and resources to reflect these changes.

See below for a summary of all the legislation changes.

Summary of changes that will come into effect on 1 July 2022

The table below highlights the main changes that will come into effect on 1 July 2022.

Amendment	New legislation	Impact for participants
Section 4	The NDIS recognises the value of people with a disability in co-designing services and respects the relationship between people with a disability and their families and carers. The NDIA will also cultivate a diverse and sustainable market of service providers.	Acknowledgement that people with a disability are central to improving the NDIS. The changes also recognise the importance of participants' relationships with their families and carers, and offer greater choice and control for participants in obtaining disability supports.
Paragraph 5(d)	The NDIS acknowledges the diversity of bodies, genders and relationships.	People with a disability can express their gender, sex and sexual orientation without discrimination.
Section 9A	The NDIA may create new forms to gather information that supports decision making and access to disability supports. All approved forms must be published on the NDIA website.	Provides clarity about the requirements of prospective and current participants when interacting with the NDIA. Access to forms online, and an additional function to upload documents will also improve the NDIS experience.
Paragraph 14(a)	Increased scope for the NDIA to invest in capacity building of mainstream services and community programs. This change helps establish more services and provisions for people with a disability and facilitates community integration.	Helps people with a disability to realise their potential for physical, social, emotional and intellectual development in their own communities.
Subsection 14(2)	The NDIA may fund a person or entity to assist one or more participants to fully access supports.	Supports greater access to services where environmental or market barriers exist for people with a disability.

Subsection 14(2)(b)	The NDIA may fund early intervention supports for children under seven years of age before their plan comes into effect.	Faster access to approved early intervention supports for children under seven prior to starting their NDIS plan.
Sections 24, 25	Updates to the Act to reflect the episodic or fluctuating nature of some disabilities, which may be considered as permanent in relation to eligibility for the NDIS.	Clearer guidance for the NDIA in considering whether an impairment is permanent, recognising that some conditions (including psychosocial disability) may be episodic or fluctuating.
Sections 43, 44	Additional risk assessments are required for participants whose plans are managed by a registered provider or nominee. This is consistent with the requirements for self-managed participants.	Consistency and protections for participants who use a registered plan management provider to purchase services from unregistered providers.
Section 45	New provisions clarify how payments are made under the NDIS, and include the ability for the NDIA to directly pay service providers on behalf of participants.	Simplified payments for participants will reduce administrative and financial burden for participants who want to use this option.
Section 47A	The NDIA can vary a participant's plan, on the CEO's initiative or at the participant's request. The conditions that the NDIA may vary the plan is limited to conditions prescribed in the Act.	Timely access to services in order to meet emerging participant's need.
Sections 48, 49	The term 'reassessment' will replace 'review' for the purpose of reassessing a plan. An internal review of decisions at the request of a participant will continue to use the word 'review'.	Reduce confusion around the use of the term 'review' within the Scheme.
Section 90(3A)	The NDIA can cancel the appointment of a nominee on behalf of a participant, if the nominee is no longer a legal guardian of the participant or no longer has the power to make decisions for the participant.	Upholds a participant's rights to make decisions by enabling the NDIA to remove substitute decision making appointments (nominees) which are no longer relevant.

Sections 101, 103	Where a review of a plan is sought, the reviewer must consider the original decision and any variation to, or replacement of the original decision. This ensures anybody reviewing a decision on its merits, including the AAT, takes into account decisions made about a participant's plan while the review is underway.	Certainty that a decision about a participant's plan will consider the most up-to-date plan. This applies to reviews that were requested after 1 July.
Subsection 127(2)	The NDIA Board must consider a person with a disability or lived experience of disability when appointing a member of the Board.	Confirm in legislation a greater representation of disability at the NDIA and strengthened person-centred focus of the NDIS.
Subsection 147(3)	The appointment of a Principal Member to the Independent Advisory Council must also be a member of the NDIA Board.	Confirm in legislation a greater representation of disability at the NDIA and strengthened person-centred focus of the NDIS.
Paragraph 174(1)(b)	An extension of time for when the NDIA Board must report to the Ministerial Council, from 1 month to 42 days, and this must include information as requested by the Minister.	More transparency about the operations of the NDIA Board.

Frequently Asked Questions

Why are you changing the NDIS?

These changes are being made because the Australian Parliament agreed to amendments to the NDIS Act in March 2022.

The National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Act 2022 included a schedule for when these changes would happen.

This schedule identified 1 July 2022 as the date to introduce a majority of these changes to the way the NDIS operates. Other minor changes were introduced on 8 April 2022.

These changes will make the Scheme simpler and more straight-forward, and remove some of the legislative barriers that have impacted participant experiences.

What impact will these changes have on Operational Guidelines?

The NDIA has a responsibility to ensure we administer the NDIS in accordance with the NDIS Act.

We use the Operational Guidelines to explain how we make decisions under the NDIS Act and Rules.

We have updated our Operational Guidelines to reflect these legislation changes.

This was important to ensure participants could benefit from the new opportunities for flexibility available as a result of the changes to the NDIS Act from 1 July.

Who was consulted on these changes to the Operational Guidelines?

We tested our updated guidelines with members of our Independent Advisory Council.

What about the NDIS Rules?

The NDIS Rules are legislative instruments made under the NDIS Act that set out additional considerations that are relevant when making decisions under the NDIS Act.

The Rules for the amended legislation are being developed by the Department of Social Services and state and territory governments.

As no new Rules are in place yet, we have made changes to our Operational Guidelines to reflect the changes that have been made to the NDIS Act.

When the NDIS Rules are finalised we will update our guidelines further to reflect any relevant changes.

What’s changing for people with psychosocial disabilities?

The language of the NDIS Act is being updated to reflect best practice.

The legislation will talk about people with ‘psychosocial disabilities’ rather than people who have ‘psychiatric conditions’. It will also stop talking about ‘psychosocial functioning’.

The legislation has been updated to clarify that conditions that are ‘episodic and fluctuating’ can be considered permanent. This can apply to people who have psychosocial disability.

This update reinforces the approach that we had already adopted based on advice from the mental health sector.

You can read more about our commitment to improve outcomes for people with psychosocial disability, including our psychosocial disability recovery-oriented framework.

What’s changing with eligibility?

There are no changes to the way that eligibility to the NDIS works.

The legislation has been updated to clarify that conditions that are ‘episodic and fluctuating’ can be considered permanent.

This reinforces the approach that we had adopted based on advice from the disability community and the mental health sector around our understanding of disabilities that can ‘vary in intensity’.

We have started work to co-design future improvements to the way that we assess eligibility to the Scheme.

You can read more about the Information Gathering for Access and Planning project and other co-designed initiatives.

What’s changing with plan management?

There are no changes to the way that plan management works.

From 1 July, whenever a participant or authorised representative asks to use a plan manager, the NDIA will need to ask some questions.

These questions will form a risk assessment to make sure that plan management does not present an ‘unreasonable risk of harm’ to the participant, for example the use of unregistered providers for certain services.

We already do this for participants who ask to self-manage their plans.

The Tune Review recommended that we do this to give extra protection for participants.

You can read more about Our Guides – Creating your plan .

What's changing with plan reviews?

Participants have told us that the ways that we have been talking about 'reviews' is confusing.

The changes to the legislation are intended to make things easier for participants, their families and carers to talk to us about making changes to their plan.

Under the NDIS Act, participants and their authorised representatives have the right to ask us to 'vary', 'reassess' or 'review' their plan.

However, if you are not sure which of these terms is relevant to your situation, we will talk to you more broadly about your plan and what 'changes' you want to make to your plan.

Sometimes, you might not need any changes, just more help to implement the plan. Other times, we might be able to vary the plan without doing a full reassessment.

In each instance, we will work with you to make those changes and you will receive a letter explaining our decision and what to do if you're not happy with your plan.

You can read more about Our Guides – Changing your plan .

What's changing with the internal and external review process?

In the past, when a participant asked for their plan to be reviewed, if their situation changed and they received a new plan before the review was completed, they would have to ask for another review of the new plan if they were still not happy with it.

From 1 July, if a participant asks for their plan to be reviewed, and if their plan is varied or reassessed while this review is in progress, the NDIS internal review and the external review by the Administrative Appeals Tribunal will automatically consider the varied or new plan as part of the review process without needing to be asked.

If you are not sure whether this change impacts your request for a review, contact us.

You can read more about Our Guides – Reviewing our decisions .

What is the difference between a plan variation and plan reassessment?

Plan reassessment is the new term (replacing plan review) and is largely identical to the previous system of plan review.

Generally, plan reassessments are used to address significant changes to a plan and require participants to undergo a planning meeting with an NDIS planner.

At the end of a reassessment, the plan is either replaced with a new plan that reflects the participant's support needs, or the existing plan is varied.

Generally, plan variations make minor changes to a participant's plan such as when a participant requires access to short term crisis or emergency funding or to correct a minor or technical error.

You can read more about Our Guides – Changing your plan .

Can I still ask for a variation or reassessment?

Yes, a participant or their authorised representative (e.g. nominee or child representative) can request a variation or reassessment of their plan at any time.

With either request, the NDIA has 21 days to respond to your request.

The NDIA can also initiate a variation or reassessment at any time.

In either instance, the variation or reassessment must be prepared with the participant.

Can the NDIA change my plan without telling me?

No, it is a requirement that every variation is prepared with the participant.

This provides transparency for participants in knowing whether variations are being considered and why.

We must also notify participants of a decision to conduct a reassessment of their plan.

When would the NDIA do a variation rather than a reassessment?

The NDIA can only conduct a plan variation in circumstances prescribed in the NDIS Act:

To correct a minor or technical error,

- To change the reassessment date of the plan,
- If there needs to be a change to the statement of participant supports in relation to managing the funding for supports or other aspects of the plan such as changing

specified providers for particular supports,
- To make a change to an existing stated support to reflect a different provider or manner of support provision,
- If the participant requires crisis or emergency funding as a result of a significant change to the participant's circumstances,
- If the Agency receives new information in response to a request for information that had previously been made, or
- If a minor variation is required to increase the funding of supports in the plan.

Will you get rid of automatic plan extensions?

We introduced automatic plan extensions as part of our response to the COVID-19 pandemic to make sure participants would be able to keep accessing supports if there were any delays to having their plans reviewed.

When a participant's plan is within 7 days of its reassessment date it is automatically extended for 365 days.

Participants have told us that this works for them so we plan to keep plan extensions in place until we no longer need them.

What's happening to plan rollovers?

In the past due to operational challenges arising from COVID-19, you may have been offered a renewal, rollover, or plan continuation as part of our participant check in process.

We received feedback that plan rollovers worked well for some people and we will continue to keep them as one of the options when we do your reassessment.

We also know participants want longer plans and fewer meetings with the NDIA.

Under the amended NDIS Act there are different ways we conduct your plan reassessment.

We could give you a:

- new plan with the same supports
- new plan with minor (small) changes to your current supports
- full plan reassessment.

Our participant check-in process will continue to focus on meaningful conversations with you, checking on your wellbeing and making sure your NDIS supports and other supports are meeting your needs.

What other changes were made to the NDIS legislation?

Some of the changes introduced by the National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Act 2022 came into effect on 8 April 2022.

These included giving more time to prospective participants to provide additional information to support their access request (from 28 days to 90 days); and making sure that the Agency gives reasons when reviewing a reviewable decision.

Administrative changes were also made to the NDIS Act to remove redundant and outdated references, rule-making powers and provisions that were used during the transition to full Scheme.

This includes updating references in the legislation from ‘National Disability Insurance Scheme Launch Transition Agency’ to ‘National Disability Insurance Agency’.

The table below highlights the main changes that came into effect on 8 April 2022.

Amendment	New legislation	Impact for participants
Section 26(2)(b)	Prospective participants have a minimum of 90 days to provide information or an assessment report relevant to an access request before it is taken to be withdrawn.	This amendment extends the minimum timeframe of 28 days to 90 days. This gives prospective participants more time to provide information to support their access request.
Section 32(1), (2)	The NDIA must commence preparing a participant’s plan within 21 days of the person becoming a participant.	Previously this was ‘as soon as reasonably practicable’. This change gives greater certainty to new participants about when they will receive their first plan.
Section 33(4)	The NDIA must approve a plan within the period worked out in the NDIS Rules.	In our Participant Service Guarantee we have committed to approve plans within: • 56 days (for participants aged 7 and over); or • 90 days (participants aged under 7)

Section 89(1), 89(3), 90(3)(a)	The NDIA must decide to cancel the appointment of nominees at the request of either the participant or nominee within the period worked out in the NDIS Rules.	In our Participant Service Guarantee we have committed to completing these actions within 14 days.
Section 100(1)	The NDIA must give reasons for reviewable decisions to each person who is directly affected by the decision.	This change will provide greater transparency around the decisions we make.
Section 100(6A)	The NDIA must complete an internal review within the period worked out in the NDIS Rules.	In our Participant Service Guarantee we have committed to completing internal review decisions within 60 days.
Schedule 3	A range of administrative changes removing redundant references and rule-making powers used during Scheme rollout to make sure the law is up to date. Primarily, the amendments remove references to the trial and transition phases of the NDIS which are no longer relevant because the NDIS is available across all of Australia.	These changes will have no practical effect on participants or on the operation of the Act.

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