



Australian Government  
Department of Social Services

# Explanation of the National Disability Insurance Scheme (Specialist Disability Accommodation) Amendment (In-kind Supports) Rules 2021

This document has been prepared for consultation on the proposed changes to the National Disability Insurance Scheme.



## Purpose of this document

This document has been prepared to assist readers to understand proposed changes being made to the *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2020* (the SDA Rules), as set out in the National Disability Insurance Scheme (Specialist Disability Accommodation) Amendment (In-kind Supports) Rules 2021 ('the Amendment Rules').

Changes to the Specialist Disability Accommodation Rules are being made as part of broader changes to the National Disability Insurance Scheme (NDIS), as set out in the National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Bill 2021. The changes in this amendment are technical in nature and support the broader changes being made across other NDIS Rules.

Information on all of the proposed changes can be found on the DSS Engage website at <https://engage.dss.gov.au>

## Providing feedback on the Rules

If you have feedback on the Amendment Rules you can make a submission via email or through the post.

Some things you might want to think about in your submission:

- Is it clear how the new ideas in these Rules will work?
- Could the new ideas in these Rules cause problems?
- Any other general comments

You can email your submissions to: [NDISConsultations@dss.gov.au](mailto:NDISConsultations@dss.gov.au)

Hard copy responses can be sent to:

NDIS Act Review Consultations  
GPO Box 9820  
CANBERRA ACT 2610

If you have any questions please contact: [NDISConsultations@dss.gov.au](mailto:NDISConsultations@dss.gov.au)

# EXPLANATION OF THE NATIONAL DISABILITY INSURANCE SCHEME (SPECIALIST DISABILITY ACCOMMODATION) AMENDMENT (IN-KIND SUPPORTS) RULES 2021

The *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2020* ('the SDA Rules') prescribe matters relating to the funding of Specialist Disability Accommodation (SDA) for participants under the NDIS and the requirements with which NDIS providers who provide SDA must comply.

The Amendment Rules propose to amend the SDA Rules by inserting a definition for the expression 'in-kind supports' used in the SDA Rules.

This proposal is a consequential amendment necessitated by the repeal and replacement of the *National Disability Insurance Scheme (Plan Management) Rules 2013* (the Plan Management Rules) by the proposed National Disability Insurance Scheme (Plan Management) Rules 2021, which would result in the expression 'in-kind supports' being removed from that instrument as it is no longer required.

The SDA Rules rely on the definition of 'in-kind supports' in the Plan Management Rules so the definition is being moved to the SDA Rules to ensure references in the SDA Rules are consistent and properly defined. There are no changes to the definition of in-kind support – the definition is simply being moved.

## Background

The Amendment Rules are part of broader legislative amendments proposed to the National Disability Insurance Scheme NDIS, set out in the National Disability Insurance Scheme (Participant Service Guarantee and Other Measures) Bill 2021 (the Bill).

The Bill amends the *National Disability Insurance Scheme Act 2013* (the Act) to legislate the Participant Service Guarantee, streamline administrative process and remove red tape to improve the participant experience.

The Bill also amends the Act to reflect the availability of the National Disability Insurance Scheme (NDIS) across Australia by removing concepts related solely to launch and transition.

The proposed changes in the Bill implement several recommendations arising out of the 2019 independent review of the Act undertaken by Mr David Tune AO PSM ('the Tune review'). The Australian Government commissioned the Tune review to identify legislative barriers to improving participant and provider experiences of the NDIS.

As part of the Tune review, it was identified that NDIS processes could be made simpler and more straightforward, particularly in regard to ensuring supports in participant plans remained fit-for-purpose and improving the efficiency of the NDIA decision-making.

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The Tune review recommended providing for streamlined plan reassessment processes and introducing the ability to vary a participant's existing plan in certain circumstances to ensure participants are able to access the benefits of funded supports as soon as possible (recommendations 20 and 21 of the Tune review).

The Tune review also recommended providing the NDIA with additional flexibility to facilitate service delivery responses in circumstances where participant choice and control is constrained, for example, because of a lack of market supply or capacity. The aim is to ensure every NDIS participant is supported to maximise the benefits of their NDIS plan (recommendation 17 of the Tune review).

To support the changes being made to the Act, changes to the NDIS Rules are also being made. There are seven sets of NDIS Rules, including two new sets of NDIS Rules, being updated as a result of the proposed changes to the Act. These rules are:

- *National Disability Insurance Scheme (Becoming a Participant) Rules 2016*
- *National Disability Insurance Scheme (Plan Management) Rules 2013*
- *National Disability Insurance Scheme (Children) Rules 2013*
- *National Disability Insurance Scheme (Nominees) Rules 2013*
- *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2020*
- *National Disability Insurance Scheme (Participant Service Guarantee) Rules 2021*
- *National Disability Insurance Scheme (Plan Administration) Rules 2021*

The amendments made to the 2020 SDA Rules alongside the proposed repeal and replacement of the *National Disability Insurance Scheme (Plan Management) Rules 2013* give effect to recommendations within the Tune review, including recommendation 27(c) to amend the NDIS rules to reflect current best practice drafting standards. The Rules do not change the practical operation or underlying policy of the SDA Rules.

## Key changes to the Rules

The sole intent of this amendment is to insert a definition of ‘in-kind supports’ into the Specialist Disability Accommodation Rules (SDA Rules). Currently, for the purposes of the SDA Rules, the expression ‘in-kind supports’ is defined with reference to the definition of ‘in-kind supports’ in the *National Disability Insurance Scheme (Plan Management) Rules 2013*.

To remedy this potential legislative gap, this amendment inserts a definition for the expression ‘in-kind supports’ in to the Specialist Disability Accommodation Rules. This definition is identical to the definition of ‘in-kind supports’ in the *National Disability Insurance Scheme (Plan Management) Rules 2013*.

As the wording of this definition is identical that which appeared in the Plan Management Rules there is no change to the operation of the Specialist Disability Accommodation Rules or their effect.