

Response to the Draft Legislation
For
The National Disability Insurance Scheme (NDIS)
By
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Introduction

Having read and found this legislation to be lacking in true commitment to people with disabilities, their families and carers, I have concentrated my efforts on part 2 – Objects and principles because of the use of the extensive word “should” which does not get a mention in the Definitions. I have replaced “should” with “**shall**” and listed in Definitions, this single alteration gives this document true and legal commitment to people with disabilities, their families and carers.

3 Objects of Act

(1) The objects of this Act are to:

- (a) provide for the National Disability Insurance Scheme in Australia; and
- (b) **shall** support the independence and social and economic participation of people with disability; and
- (c) **shall** provide reasonable and necessary supports, including early intervention supports, for participants in the National Disability Insurance Scheme launch; and
- (d) **shall** enable people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports; and
- (e) **shall** facilitate the development of a nationally consistent approach to the access to, and the planning and funding of, supports for people with disability; and
- (f) **shall** promote the provision of high quality and innovative supports to people with disability; and
- (g) **shall** raise community awareness of the issues that affect the social and economic participation of people with disability, and facilitate greater community inclusion of people with disability; and
- (h) **shall** give effect to certain obligations that Australia has as a party to the Convention on the Rights of Persons with Disabilities.

(2) These objects are to be achieved by:

- (a) providing the foundation for governments to work together to develop and implement the National Disability Insurance Scheme launch; and
- (b) adopting an insurance-based approach, informed by actuarial analysis, to the provision and funding of supports for people with disability.

(3) In giving effect to the objects of the Act, regard is to be had to:

- (a) the progressive implementation of the National Disability Insurance Scheme; and

- (b) the need to ensure the financial sustainability of the National Disability Insurance Scheme.

4 General principles guiding actions under this Act

- (1) People with disability **shall** have the same right as other members of Australian society to realise their potential for physical, social, emotional and intellectual development.
- (2) People with disability **shall** be supported to participate in and contribute to social and economic life to the extent of their ability.
- (3) People with disability and their families and carers **shall** have certainty that people with disability will receive the care and support they need over their lifetime.
- (4) People with disability **shall** be supported to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports.
- (5) People with disability **shall** be supported to receive reasonable and necessary supports, including early intervention supports.
- (6) People with disability **shall** have the same right as other members of Australian society to respect for their worth and dignity and to live free from abuse, neglect and exploitation.
- (7) People with disability **shall** have the same right as other members of Australian society to pursue any grievance.
- (8) People with disability **shall** have the same right as other members of Australian society to be able to determine their own best interests, including the right to exercise informed choice and engage as equal partners in decisions that will affect their lives, to the full extent of their capacity.
- (9) People with disability **shall** be supported in all their dealings and communications with the Agency so that their capacity to exercise choice and control is maximised in a way that is appropriate to their circumstances and cultural needs.
- (10) People with disability **shall** have their privacy and dignity respected.
- (11) Reasonable and necessary supports for people with disability **shall**:
 - (a) support people with disability to pursue their goals and maximise their independence; and
 - (b) support the capacity of people with disability to undertake activities that enable them to participate in the community and in employment.
- (12) The role of families, carers and other significant persons in the lives of people with disability **shall** be acknowledged and respected.
- (13) People with disability **shall** be supported to receive supports outside the National Disability Insurance Scheme, and be assisted to coordinate these supports with the supports provided under the National Disability Insurance Scheme.

- (14) Innovation, quality, continuous improvement, contemporary best practice and effectiveness in the provision of supports to people with disability **shall** be promoted.
- (15) It is the intention of the Parliament that the Ministerial Council, the Minister, the Board, the CEO and any other person or body is to perform functions and exercise powers under this Act in accordance with these principles, having regard to:
 - (a) the progressive implementation of the National Disability Insurance Scheme; and
 - (b) the need to ensure the financial sustainability of the National Disability Insurance Scheme.

5 General principles guiding actions of people who may do acts or things on behalf of others

It is the intention of the Parliament that, if this Act requires or permits an act or thing to be done by or in relation to a person with disability by another person, the act or thing is to be done, so far as practicable, in accordance with both the general principles set out in section 4 and the following principles:

- (a) people with disability **shall** be involved in decision making processes that affect them, and where possible make decisions for themselves;
- (b) people with disability **shall** be encouraged to engage in the life of the community;
- (c) the judgements and decisions that people with disability would have made for themselves **shall** be taken into account;
- (d) the cultural and linguistic circumstances of people with disability **shall** be taken into account;
- (e) the supportive relationships, friendships and connections with others of people with disability **shall** be recognised.

Part 4—Definitions

9 Definitions

In this Act:

Shall Always in bold italics and means it is a mandatory requirement.