

LIST OF RECOMMENDATIONS

Recommendation 1

2.18 The committee recommends that the conditional language of s3(1)(h) of the Bill be revised to more strongly reflect Australia's international human rights obligations such as those in relation to:

- civil, political, economic, social and cultural rights;
- the prevention of racial discrimination or torture; and
- people with disability, women, and children.

Recommendation 2

2.29 The committee recommends that clause 4 of the bill be amended to explicitly state that it is presumed that people have the capacity to make their own decisions unless objectively assessed otherwise.

Recommendation 3

2.30 The committee recommends that clause 5(a) of the bill be amended to read:

- (a) people with disability should participate actively in decisions that affect their lives, and be supported where necessary to enable this to occur.

Recommendation 4

2.53 The committee recommends that subclause 4(4) of the bill be amended to read:

- (4) People with disability should be supported to exercise choice and control and manage the associated risk in the pursuit of their goals and the planning and delivery of their supports.

Recommendation 5

2.65 The committee recommends that clause 5(d) be amended to read:

- (d) the cultural and linguistic circumstances and gender of people with disability should be taken into account.

Recommendation 6

2.66 The committee recommends that all explanatory material associated with the operation of the NDIS Scheme be provided in an easy-to-understand format such as Easy English.

Recommendation 7

3.34 The committee recommends that the bill be amended to recognise the role of advocacy, and that the government consider as one option the amendment of clause 4 to recognise in the principles the roles of advocacy.

Recommendation 8

3.36 The committee recommends that the government make an ongoing commitment, outside the NDIS, to the funding of advocacy, noting the existence of advocacy schemes across all jurisdictions, and that the need for advocacy is likely to increase with the rollout of the NDIS.

Recommendation 9

3.37 The committee recommends that independent advocacy funding not be managed by the Agency, and that clause 6(2) remains unchanged.

Recommendation 10

3.42 The committee recommends that the government provide clarification, either in the bill or the explanatory memorandum, to ensure that those using the bill will understand that, unless the contrary is clearly intended, a 'person' in the bill includes companies and other incorporated bodies.

Recommendation 11

4.38 The committee recommends that the government, through COAG processes, identify mechanisms by which to provide adequate specialised disability support for people 65 and over who have disabilities not resulting from the natural process of ageing.

Recommendation 12

4.39 The committee recommends that, as a matter of priority, the government develop information for communication to members of relevant stakeholder groups about the scope for clause 25 (early intervention requirements) to address the needs of some people ageing with conditions that may not cause impairment until after they have turned 65.

Recommendation 13

4.40 The committee recommends that the government conduct further research into the costs and benefits of varying the NDIS age eligibility criterion.

Recommendation 14

4.50 The committee recommends that the government make a more detailed statement setting out the underlying rationale for the approach taken to the residency eligibility criterion.

Recommendation 15

4.62 The committee recommends that the government consult further with mental health organisations including statutory bodies about whether clause 24 of the bill, and related NDIS Rules, sufficiently take into account recovery approaches and the distinction between disability support and mental health services, to ensure the focus of the NDIS is on people with disabilities who have long-term consequences of their impairment (which may vary in intensity).

Recommendation 16

4.68 The committee recommends that the government ensure that people with disabilities who are in custody will have appropriate access to the NDIS.

Recommendation 17

4.69 The committee recommends that the Agency develop an information strategy to ensure that people with disabilities who are in custody, their carers and their advocates, are aware of the group's eligibility for services under the NDIS.

Recommendation 18

4.73 The committee recommends that the government revise the language of clause 26(1)(b)(ii) to ensure that examinations can be required to be conducted by a member of any appropriate profession.

Recommendation 19

5.14 The committee recommends that, where support is provided for an objective that will extend beyond the 12 month life of the plan, the NDIS Rules make clear that the assessment of the outcome of this support will take the long-term objectives into account.

Recommendation 20

6.47 The committee recommends that provision be made in the bill for a mechanism to ensure that service providers must have a system in place to manage potential conflict of interest, and the performance of that mechanism should be examined during the review of the Act in 2015.

Recommendation 21

6.72 The committee recommends that the Commonwealth continues to work with the States, Territories and relevant workforce organisations in the disability sector to ensure that implementation of the NDIS does not lead to more insecure working conditions in the sector, and that measures are put in place to enhance the skills, training and capacity of the disability workforce.

Recommendation 22

7.20 The committee recommends that in general where:

- a plan is being prepared, or a nominee is undertaking an act, and
 - at the time, the person with disability is unable to express their preferences, and
 - a formal advance directive (however described) is in effect for that person,
- the rules ensure that the plan is not made, or an act undertaken by a nominee, in contradiction of a preference expressed in the advance directive.

Recommendation 23

7.27 The committee recommends that the government ensure that either the bill or rules permit nominees to undertake an act only when the participant is not capable of doing, or being supported to do, the act.

Recommendation 24

7.30 The committee recommends that clause 91(1) be amended to delete the term 'severe'.

Recommendation 25

7.48 The committee recommends that,

- the government monitor and consult with stakeholders on complaints handling in launch sites; and

- when the review of the legislation is being conducted under clause 208, the government consider the establishment of an external complaints handling mechanism between internal review and the AAT.

Recommendation 26

8.81 The committee recommends that the bill be amended to allow a person, where they are required by the CEO to claim or obtain compensation for a personal injury, to elect to subrogate their rights to compensation to the agency.

Recommendation 27

8.82 The committee recommends that the government note submitters' concerns regarding legal advice and confidential communications provided to the agency, and further examine whether the bill should be amended to clarify that any such advice or communications by participants would not constitute a waiver of legal professional privilege.

Recommendation 28

9.33 The committee recommends that at least three members of the Board are people with disability.

Recommendation 29

9.54 The committee recommends that subclause 147(5) be amended so as to read:

- (5)** In appointing the members of the Advisory Council, the Minister must:
- (a)** have regard to the desirability of the membership of the Advisory Council reflecting the diversity of people with disability; and
 - (b)** ensure that all members are persons with skills, experience or knowledge that will help the Advisory Council perform its functions; and
 - (c)** ensure that:
 - (i)** a majority of the members are people with disability; and
 - (ii)** at least two of the members are carers of people with disability; and

(iii) one or more of the members is a person who has skills, experience or knowledge of disability in rural or regional areas.

Note: Any member may fulfil one or more criteria in 147(5)(c)