



Australian Government



jobactive

Guideline:

# Support NEIS Participants to start and run their small business

New Business Assistance with New Enterprise Incentive Scheme (NEIS) provides eligible NEIS Participants with NEIS Business Mentoring for the first 52 weeks after commencing NEIS Assistance.

NEIS Assistance aims to give NEIS Participants the best chance of running a successful and viable business at the end of their NEIS participation. Once the NEIS Participant commences NEIS Assistance, the NEIS Provider supports them to set up and run their NEIS Business.

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## Changes from the previous version (Version 3.0)

### **Policy changes:**

Nil.

### **Wording changes:**

Wording changes throughout to clarify policy and remove duplication.

A full document history is available on the [Provider Portal](#).

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## Related documents and references

[How people access NEIS and participate in NEIS Training Guideline](#)

[Additional Services—Exploring Being My Own Boss Workshop and Complementary Placements 2016-2022](#)

[Servicing Participants with Challenging Behaviours Guideline](#)

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## 1. Commence NEIS Assistance

Before the NEIS Provider can commence a NEIS Prospective Participant in NEIS Assistance, the NEIS Prospective Participant must:

- complete the NEIS application process
- have their NEIS Business Plan approved by the NEIS Provider
- agree to/sign a NEIS Participant Agreement
- agree to take part in NEIS Business Mentoring
- agree to maintain NEIS Business insurance
- agree to work in their NEIS Business in line with their approved NEIS Business Plan
- agree to tell the NEIS Provider of any changes that affect them or their NEIS Business.

The NEIS Participant Agreement outlines the NEIS Provider's and the NEIS Participant's obligations from the date the NEIS Business commences to the date the NEIS Participant exits NEIS Assistance.

A NEIS Participant's commencement date should align with the beginning of a NEIS Allowance pay fortnight. NEIS Providers can refer to the NEIS Allowance Payment Dates Calendar on the Provider Portal for more information.

### NEIS application process

All NEIS Participants must complete the NEIS application process before commencing NEIS Assistance.

The application process captures the NEIS Prospective Participant's personal information, business details, bank details and Tax File Number Declaration (if applicable). During the application process, the NEIS Prospective Participant also confirms they are NEIS Eligible, acknowledge they will transfer to NEIS Allowance (if applicable) and declare all information they have provided is true and correct. The NEIS Provider must send the NEIS Prospective Participant the NEIS application form. This can be done before or after approving the NEIS Business Plan.

Before sending the NEIS Prospective Participant the application form, the NEIS Provider must:

- verify the NEIS Prospective Participant's email address, as all correspondence will be sent to this email address
- identify if the NEIS Prospective Participant will transfer to NEIS Allowance (refer to Payment of NEIS Allowance and NEIS Rental Assistance section below).

The NEIS Participant can update most of their personal information via the jobactive website while receiving NEIS Services. NEIS Participants cannot update their bank details via the jobactive website. To update their bank details, they must inform the NEIS Provider in writing or by submitting a signed Change of Circumstances form to the NEIS Provider.



**Documentary Evidence:** If the NEIS Prospective Participant completes the NEIS application form offline, the NEIS Provider must keep the following Documentary Evidence:

- a signed NEIS Application Form, including the NEIS Participant's bank details (if applicable)

- a completed Tax File Number Declaration Form (if applicable).



**Documentary Evidence:** If a NEIS Participant updates their bank details before or after Commencing NEIS Assistance, the NEIS Provider must retain a copy of the written correspondence or signed Change of Circumstances Form.

### Payment of NEIS Allowance and NEIS Rental Assistance

To be eligible to receive NEIS Allowance, a NEIS Participant must be receiving an Income Support Payment on the day immediately before transferring to NEIS Allowance. NEIS Allowance can only be paid for up to the first 39 weeks that a person is receiving NEIS Assistance.

To be eligible for NEIS Rental Assistance, a NEIS Participant must be receiving rent assistance from Services Australia or the Department of Veterans' Affairs (DVA) on the day immediately before commencing NEIS Allowance. NEIS Rental Assistance can only be paid for the first 26 weeks that a person is receiving NEIS Assistance. More information is available on the [NEIS Rental Assistance Eligibility Form](#).

Most NEIS Participants receiving an Income Support Payment will transfer to NEIS Allowance from their Centrelink/DVA Income Support Payment when they commence NEIS Assistance.

If a NEIS Participant is entitled to an Income Support Payment higher than the current rate of NEIS Allowance, they can approach Services Australia and request a 'top-up' payment.

For the Department to pay the NEIS Participant NEIS Allowance and NEIS Rental Assistance (if eligible), the NEIS Participant must have:

- agreed to or signed a NEIS Participant Agreement
- completed a NEIS application form, including the NEIS Participant's bank details (online or offline)
- completed a Tax File Number Declaration Form (offline process only)

- completed a NEIS Rental Assistance Eligibility Form (if applicable).

Note: NEIS Providers transferring a NEIS Participant to NEIS Allowance must confirm that the relevant forms were signed and dated no more than four weeks prior to the transfer.

The NEIS Rental Assistance Eligibility Form is available via email from the NEIS Provider. The NEIS Prospective Participant may provide a copy of their completed NEIS Rental Assistance Eligibility Form to the NEIS Provider via email, in hard copy or by uploading the form via the jobactive website.

In circumstances where the NEIS Prospective Participant is unable to have the NEIS Rental Assistance Eligibility form physically completed by a Services Australia Officer, an electronic Centrelink Statement will be accepted in place of the hard copy form. Information on how to request an electronic Centrelink Statement can be found at [the Services Australia website](#).

To confirm the transfer to NEIS Allowance, a Departmental NEIS pay officer sends a confirmation notification (email or letter) to the NEIS Participant, with the details of their payment information.

### NEIS Participants wanting to access the Coronavirus Supplement

For the period of the Coronavirus Supplement, NEIS Participants receiving a Centrelink/DVA Income Support Payment may choose whether to remain on their current payment/s or transfer to NEIS Allowance.

When discussing this option with the NEIS Participant, NEIS Providers must clearly outline that the amount of NEIS Allowance a NEIS Participant receives is not affected by income from their NEIS Business. Centrelink/DVA Income Support Payments have an income test that may affect the amount of payment received.

When the Coronavirus Supplement ceases, eligible NEIS Participants will be progressively transitioned to NEIS Allowance. See [Taking up the option to transfer to NEIS Allowance](#) below.

### Taking up the option to transfer to NEIS Allowance

NEIS Participants receiving the following Income Support Payments can choose whether to remain on their current payment or transfer to NEIS Allowance:

- Parenting Payment (Single)
- Disability Support Pension
- Volunteers receiving an Income Support Payment from Services Australia or the Department of Veterans' Affairs (Centrelink/DVA).

These NEIS Participants only have one opportunity to transfer to NEIS Allowance during NEIS Assistance. The transfer can occur when the NEIS Participant commences NEIS Assistance or within the first 39 weeks of receiving NEIS Assistance.

If these NEIS Participants transfer to NEIS Allowance after commencing NEIS Assistance, the Department pays the NEIS Participant NEIS Allowance fortnightly in arrears from that time until the end of the NEIS Allowance period. NEIS Allowance is not backdated to the start of NEIS Assistance.

NEIS Providers must obtain a written request from the NEIS Participant stating they wish to transfer to NEIS Allowance. This must include:

- the date of effect
- a completed and signed Tax File Number Declaration Form
- completed NEIS Rental Assistance Eligibility Form (if applicable)
- a signed NEIS Application Form, including the NEIS Participant's bank details.

Note: NEIS Providers transferring a NEIS Participant to NEIS Allowance must confirm that the relevant forms were signed and dated no more than four weeks prior to the transfer.

NEIS Participants can only transfer to NEIS Allowance if they are still receiving a Centrelink/DVA Income Support Payment. If a NEIS Participant's Centrelink/DVA Income Support Payment is cancelled, they must report to Services Australia to have their eligibility reassessed.



**System step:** The NEIS Provider must indicate if the NEIS Participant will be receiving NEIS Allowance and NEIS Rental Assistance in the Department's IT Systems. If yes, the NEIS Provider must give the NEIS Prospective Participant access to the NEIS online application form or enter the following details in the Department's IT Systems:

- the NEIS Participant's allowance details
- the NEIS Participant's bank account details
- the Participant's Tax File Number Declaration details.

The NEIS pay system automatically calculates the entitlement and payments are made fortnightly in arrears from the next fortnightly pay run.

Note: BSB numbers are verified in the Department's IT Systems. The NEIS Provider should contact the Department if a legitimate BSB number is displayed as invalid.

## NEIS Participant Agreement

Each NEIS Prospective Participant must agree to or sign a NEIS Participant Agreement before commencing NEIS Assistance.

The NEIS Participant Agreement can be generated after the NEIS Prospective Participant has completed the NEIS application process and the NEIS Provider has approved the NEIS Business Plan.

The NEIS Provider must send the NEIS Participant Agreement to the NEIS Prospective Participant with their agreed start date for consideration and agreement.

The NEIS Provider must explain the NEIS Prospective Participant's obligations while receiving NEIS Assistance and advise them to carefully read and understand all the terms of their NEIS Participant Agreement.



**System step:** To send the NEIS Prospective Participant the NEIS Participant Agreement online, the NEIS provider must enter the following information into the Department's IT Systems and select 'Send online':

- the proposed NEIS start date
- NEIS Business industry details (Business details screen)
- NEIS Rental Assistance amount (if applicable).

Once the NEIS Prospective Participant agrees to their NEIS Participant Agreement online, the agreement is automatically sent to the Department for approval.

Note: If the NEIS Prospective Participant is signing the NEIS Participant Agreement offline, the NEIS Provider must manually send the NEIS Participant Agreement (signed by the NEIS Prospective Participant) to the Department via email for approval.



**System step:** If all requirements are met, the Department approves the NEIS Participant's commencement in the Department's IT Systems. The Department's IT Systems use the NEIS Commencement to trigger the relevant payment.

Note: The Department's IT Systems advise Services Australia on the day the NEIS Participant commences NEIS Assistance and exits the NEIS Participant from the Other Provider's caseload (if applicable).



**Documentary Evidence:** If the NEIS Participant has completed the NEIS application process offline and/or signed the NEIS Participant Agreement offline (not via the jobactive website), the NEIS Provider must give the Department the NEIS Participant's:

- signed NEIS Participant Agreement for the Department's approval
- completed and signed NEIS Application Form (if not completed online)
- completed and signed Tax File Number Declaration Form (if applicable and not completed online)
- completed and signed NEIS Rental Assistance Eligibility Form (if applicable).

The NEIS Provider must also retain a copy of these documents on the NEIS Participant's File.

(Deed references: Clause 128, 129)

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## 2. Minimum services provided in NEIS Assistance

When a NEIS Participant Agreement is approved, the NEIS Provider must provide the following support and mentoring to the NEIS Participant for up to 52 weeks or until the NEIS Participant exits NEIS Assistance.

As outlined in the jobactive Deed 2015–2022, a NEIS Provider must deliver the minimum number of contacts and NEIS Business Mentoring visits during the first 52 weeks the NEIS Participant is operating their NEIS Business.

The NEIS Provider may choose to deliver additional contacts or NEIS Business Mentoring visits as required.

### Initial visit

The NEIS Provider must conduct an initial visit with the NEIS Participant within the first four weeks of the NEIS Participant operating their NEIS Business. This visit is to ensure the NEIS Business:

- is operating according to the approved NEIS Business Plan
- has insurance in place, and that this insurance has been current from the NEIS Commencement.

The initial visit is one of the five required NEIS Business Mentoring visits a NEIS Provider must conduct.

If the NEIS Participant started their NEIS Business within the last five weeks of the first Financial Quarter, another NEIS Business Mentoring visit may not be required

during the quarter. The NEIS Provider must deliver at least one NEIS Business Mentoring visit in each of the following Financial Quarters.

### NEIS Business Mentoring visits

The NEIS Provider must provide NEIS Business Mentoring to NEIS Participants for the duration of their participation in NEIS Assistance. This includes:

- providing a minimum of five visits (including an initial visit)
- delivering mentoring face-to-face at the NEIS Business premises, except where:
  - the NEIS Business is home-based or mobile, or
  - the NEIS Business is located in an area where NEIS Business Mentoring visits are not practical.

NEIS Providers must deliver the NEIS Services they committed to deliver in their tender, unless otherwise advised by the Department. They may negotiate alternative mentoring arrangements with the Department where face-to-face visits are not possible (for example, due to distance and/or the business type). Requests for alternative mentoring arrangements should include the method of communication (for example, video conferencing) as well as the reason for alternative arrangements. The Department considers such requests on a case-by-case basis and advises the NEIS Provider if it approves the alternative mentoring arrangements.

The NEIS Provider can decide when in the Financial Quarter they conduct all visits after the initial visit. They may choose to conduct the next visit early in the Financial Quarter to check the previous Financial Quarter's operations.

NEIS Business Mentoring visits must take place each Financial Quarter that the NEIS Participant is operating their NEIS Business.

The NEIS Provider must obtain proof that the NEIS Participant holds NEIS Business insurance each quarter. If the NEIS Participant purchased 12 months of coverage, the NEIS Provider must obtain updated proof of insurance each quarter. The NEIS Provider may obtain proof of insurance at the Business Mentoring visit or as part of a separate process.

### Monthly contact

NEIS Providers must contact each NEIS Participant at least monthly for the duration of their participation in NEIS Assistance. Monthly contacts must:

- check that the NEIS Participant is still operating their NEIS Business according to their NEIS Business Plan
- check that the NEIS Business insurance is still current and obtain proof of currency if in doubt
- offer and provide any business advice and counselling to assist the NEIS Participant in operating their NEIS Business.

NEIS Providers can use any communication method for these monthly contacts.



**System step:** NEIS Providers must record the initial visit, monthly contacts and NEIS Business Mentoring visits in the Department's IT Systems. This includes recording:

- when the contact took place
- if appropriate NEIS Business insurance has been maintained

- a summary of the business advice provided by the NEIS Provider
- receipt of NEIS Financial Information (that is, NEIS Income Statement and NEIS External Income Test)
- assessment of Commercial Viability (second and third Financial Quarters only)
- any issues that have been identified
- the method of communication where approval is granted by the Department, and the NEIS Provider contacts the NEIS Participant via alternative means (such as video conferencing)
- if the first Financial Quarter visit was not required—select the ‘Visit not conducted this quarter’ after the financial information has been completed.



**Documentary Evidence:** The NEIS Provider must retain the following documentation on the NEIS Participant’s File for each Initial visit and NEIS Business Mentoring visit:

- NEIS Financial Information (for NEIS Business Mentoring visits)
- Assessment of Commercial Viability (for NEIS Business Mentoring visits)
- Assessment of NEIS External Income Test (for NEIS Business Mentoring visits)
- NEIS Business Mentoring reports
- Proof of NEIS Business insurance
  - Initial visit:
    - Certificate of currency or
    - proof of payment—evidence that the NEIS Participant has paid at least the first month of a 12 month insurance policy.
  - NEIS Business Mentoring visit:
    - Certificate of currency (issued within the relevant quarter)
    - Proof of monthly payments, or
    - Statutory declaration from the NEIS Participant that their business insurance is current. A statutory declaration is only appropriate if a certificate of currency for a 12 month insurance policy was provided at the initial visit.
- Alternative mentoring arrangements agreed by the NEIS Provider and NEIS Participant (if applicable).

The NEIS Provider must give the Department additional information related to NEIS Business Mentoring, if required.

(Deed references: Clause 129.3 to 129.10, Annexure A1)

### 3. Check NEIS Financial Information and Commercial Viability

The NEIS Provider must collect the NEIS Participant’s NEIS Financial Information and check whether the NEIS Business is Commercially Viable as defined in the Deed.

The Department provides the NEIS Income Statement Form on the [Provider Portal](#) for NEIS Participants to use when providing the required NEIS Financial Information. The use of the form is not mandatory and may be supplemented by the NEIS Participant providing other financial statements.

If the NEIS Participant started less than four weeks before the end of the Financial Quarter, they do not need to submit NEIS Financial Information for that Financial Quarter. In this case, the Financial Information provided by the NEIS Participant in the next Financial Quarter must cover the full period from their NEIS

Commencement date.

If the NEIS Participant is suspended for part of the Financial Quarter, they still need to submit their NEIS Financial Information to their NEIS Provider. In this case, the NEIS Provider takes the suspension into account using a pro rata Commercial Viability check.

If the NEIS Participant is suspended for not supplying their NEIS Financial Information, the NEIS Provider must:

- ensure the NEIS Participant submits their NEIS Financial Information
- ensure the NEIS Participant has insurance in place
- conduct a Commercial Viability check (if relevant)
- update the Department's IT Systems before recommencing the NEIS Participant in NEIS Assistance.

When completing a Commercial Viability check, the NEIS Provider must assess cash flow against the forecast cash flow per Financial Quarter set out in the NEIS Participant's NEIS Business Plan.



**System step:** The NEIS Provider must update the Department's IT Systems with the NEIS Participant's NEIS Financial Information, including the outcome of the Commercial Viability check, within the required timeframes.



**Documentary Evidence:** The NEIS Provider must retain the following documentation on the NEIS Participant's File:

- NEIS Financial Information, such as the NEIS Income Statement Form
- written assessment of Commercial Viability, including a short statement and/or calculation to support the outcome recorded in the Department's IT Systems.

## Failed Commercial Viability Checks

If the NEIS Business is identified as potentially Commercially Viable but at risk of failure without remedial action, the NEIS Provider must:

- develop an action plan in consultation with the NEIS Participant to improve the performance of the NEIS Business, and include a timeframe to reassess (this could include reassessing whether the NEIS Business is Commercially Viable in the third Financial Quarter, if the assessment at the second Financial Quarter showed that the NEIS Business was potentially not Commercially Viable)
- review the action plan at monthly contacts and NEIS Business Mentoring visits and, if the issue cannot be resolved, recommend termination of the NEIS Business.

If the NEIS Business is identified as not Commercially Viable, the NEIS Provider:

- must recommend termination of the NEIS Business and advise the NEIS Participant of the recommendation to terminate their NEIS Participant Agreement
- should note the communication or conversations with the NEIS Participant and keep the note on file.

The [Reporting Change in Circumstances](#) section of this Guideline has more information on suspensions, recommencements and terminations.



**System step:** If a NEIS Participant's NEIS Business is identified as not Commercially Viable, the NEIS Provider must recommend termination of the NEIS Business via the Department's IT Systems within five Business Days.



**Documentary Evidence:** The NEIS Provider must retain an action plan on the NEIS Participant's file if the NEIS Business is at risk of failure.



**Documentary Evidence:** The NEIS Provider should keep a note on file of any discussions with the NEIS Participant about their NEIS Business not being Commercially Viable.

## Run the NEIS External Income test

The NEIS External Income Test checks the total gross NEIS External Income earned during a Financial Quarter. NEIS Participants are allowed to earn additional income separate to their NEIS Allowance, but only up to a certain amount. This is checked by running a NEIS External Income Test at the end of each Financial Quarter.

The NEIS Provider must run the NEIS External Income Test within five Business Days of the NEIS Participant submitting their NEIS Income Statements.

Sources of External Income are listed in [Attachment A](#).

## Calculate the amount of NEIS Allowance in a Financial Quarter

The NEIS Participant will not pass the NEIS External Income Test if their total gross NEIS External Income during the Financial Quarter exceeds twice the rate of NEIS Allowance for that same period.

For testing purposes, there are usually six fortnightly pays in any Financial Quarter.

Please refer to the NEIS Allowance Payment Dates Calendar on the Provider Portal. The NEIS Provider can determine the approximate figure by doubling the current fortnightly rate and multiplying the result by the number of pays in that Financial Quarter. NEIS Providers who need an exact figure can contact their Departmental NEIS pay officer.

If the NEIS Participant fails the NEIS External Income Test their NEIS Allowance and NEIS Rental Assistance is suspended for the entire Financial Quarter in which the test was done. The NEIS Participant must submit a NEIS Income Statement for the Financial Quarter for which they have been suspended, so the NEIS Provider can assess whether to continue the suspension or reinstate (if applicable) their NEIS Allowance and NEIS Rental Assistance in the next Financial Quarter.



**System step:** If the NEIS Participant fails the NEIS External Income Test the NEIS Provider must advise the Department via the Department's IT Systems within five Business Days.

Note: There is more information in the [Breaches to the NEIS Participant Agreement](#) section of this Guideline.



**Documentary Evidence:** The NEIS Provider must retain records related to the external income test on the NEIS Participant's file.

(Deed references: Clause 129.7 to 129.11)

## 4. Report Change of Circumstances

The NEIS Participant must advise their NEIS Provider directly about any changes to their circumstances, as this could affect their entitlement to NEIS Assistance.

The NEIS Participant may in addition update their personal details via the Department's jobactive website.

In the event of the death of a NEIS Participant, the NEIS Provider must view confirmation (for example an email or letter from a relative or a death notice from a newspaper or website).



**System step:** The NEIS Provider must notify the Department via the Department's IT Systems of the NEIS Participant's change of circumstances or if the NEIS Participant is not complying with the terms of their NEIS Participant Agreement. The NEIS Provider does this by entering a recommendation to suspend, recommence or terminate the NEIS Participation Agreement.

The NEIS Provider could be liable for overpayments if they fail to notify the Department of any changes to NEIS Participant's circumstances within five Business Days.



**Documentary Evidence:** The NEIS Provider must retain Documentary Evidence on the NEIS Participant's file about the change of circumstance. For example:

- written advice from the participant or medical certificate dates
- NEIS External Income Test assessment
- written correspondence about changes in circumstances
- file note of verbal communication about changes in circumstances
- suspension or termination recommendations
- death notice or certificate (where applicable).

### Amend the NEIS Business Plan

The NEIS Participant can amend their NEIS Business Plan after they have started NEIS Assistance. However, the core elements of the NEIS Business must remain unchanged. It is not acceptable to completely change the nature of the NEIS Business (for example, from cleaning to photography). The NEIS Provider needs to terminate the NEIS Participant Agreement if the NEIS Participant cannot continue with the core elements of their original NEIS Business Plan.

The NEIS Provider must:

- ensure the proposed changes will not jeopardise the NEIS Business' Commercial Viability or ongoing viability
- ask for the Department's approval for changes to NEIS Business Plans if:
  - there is overseas travel to purchase stock or earn business income
  - there are changes to the business activities or diversification of business operations, or
  - a NEIS Business partnership is being dissolved.

The Department only requires a summary of the changes. A copy of the NEIS Business Plan may be requested on a case-by-case basis if required.



**System step:** If the NEIS Participant has changed the core elements of their NEIS Business or the NEIS Business is no longer Commercially Viable, the NEIS Provider

must recommend termination of the NEIS Participant Agreement in the Department's IT Systems. They must also notify their Departmental NEIS pay officer. The NEIS Provider must add a comment in the Department's IT Systems to support the recommendation.

(Deed references: Clause 129.11)

## NEIS Participant moves between Employment Regions

NEIS Participants who move to a new Employment Region must be transferred to a NEIS Provider contracted to deliver NEIS Services in that region. The Department may grant exceptions to this rule on a case-by-case basis where it is in the NEIS Participant's best interest to remain with their current NEIS Provider. The gaining NEIS Provider must check that the NEIS Business is Commercially Viable in the new Employment Region.

If the NEIS Participant's current NEIS Provider delivers NEIS Services in the Participant's new location, the NEIS Participant must be transferred to a Site of their current NEIS Provider in that Employment Region.



**Documentary Evidence:** The current NEIS Provider must retain documents identifying the change of location and discussions with the gaining NEIS Provider.



**System step:** The NEIS provider must ask a Departmental NEIS pay officer to action the transfer in the Department's IT Systems.

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## 5. Breaches to the NEIS Participant Agreement

If the NEIS Provider finds the NEIS Participant is in breach of their NEIS Participant Agreement, the NEIS Provider must recommend a suspension or termination in the Department's IT Systems within five Business Days.

The Departmental NEIS pay officer then approves the suspension or termination.

Approving a suspension will either:

- suspend the NEIS Participant's NEIS Allowance if they fail the NEIS External Income Test, or
- suspend the NEIS Participant Agreement and NEIS Allowance (where relevant) for all other suspension reasons.

Approving a termination will end the NEIS Participant Agreement.

If the NEIS Participant is in breach of their NEIS Participant Agreement, the NEIS Provider should first consider if a suspension is appropriate, to allow the NEIS Participant time to comply with the Agreement. If the NEIS Participant does not comply within the required timeframe (see below), the NEIS Provider should recommend a termination.

If the Departmental NEIS pay officer agrees with the recommendation, they will send an email notification to the NEIS Participant letting them know they have approved the suspension, recommencement or termination. For suspensions, the notification also informs the NEIS Participant how long they have to resolve the suspension issue before further action is taken, such as termination.

The NEIS Provider may also recommend suspension or termination for the NEIS Participant if they display challenging behaviours. The [Servicing Participants with](#)

[Challenging Behaviours Guideline](#) has more information.

(Deed references: Clause 129).



**Documentary Evidence:** The NEIS Provider must record and maintain all verbal and written warnings they give to a NEIS Participant with challenging behaviours.

### Add a suspension

The NEIS Provider enters one of the following suspension start dates:

- the date the NEIS Participant did not comply with the term/s of their NEIS Participant Agreement or the date the NEIS Provider identified non-compliance
- the date of the first failed contact attempted by the NEIS Provider (note, the NEIS Provider must allow five Business Days for the NEIS Participant to respond before recommending a suspension)
- the date the NEIS Participant asked to be suspended (for example, if they are ill), or
- the first day of the new Financial Quarter following the previous Financial Quarter in which the NEIS Participant did not pass the NEIS External Income Test.

Depending on the type of suspension applied, one of the following four timeframes usually applies when suspending the NEIS Participant:

- If the NEIS Participant has not shown current proof of NEIS Business insurance, they have 13 Business Days to provide proof (Insurance Suspension (NINS))
- If the NEIS Participant has failed to comply with their NEIS Participant Agreement, they have 33 days from the date of the suspension notification to fix the issue (this is considered a reasonable timeframe). Suspension reasons include:
  - Business not primarily operating within Australia (BNWA)
  - Business not operating according to the Business Plan (BOBP)
  - Casual Employment to help out in business (CASP)
  - Did not notify of a Change in Circumstances that affects their participation (COCF)
  - Failed to lodge their NEIS Financial Information on time (FLBR)
  - Relocation of the NEIS Business (REBS)
  - Refused Mentoring (RMTR)
  - Temporary travel that is not in the Business Plan (TTVL)
  - NEIS Participant is uncontactable (UNCO)
  - Temporarily ceased operating NEIS Business (TCOB).
- If the NEIS Participant is unable to operate their NEIS Business due to illness, where medical certificate dates are entered into the Department's IT Systems, the NEIS Participant may be suspended for a maximum of 13 weeks. The 'Absent due to illness' (TILL) suspension reason should be used.
- If the NEIS Participant has received 39 weeks or more of NEIS Assistance and no longer wishes to participate, the NEIS Participant may be suspended for a maximum of 13 weeks. This suspension should only be used where the NEIS Participant agrees and continues to operate their NEIS Business. If the NEIS Participant remains suspended they will be automatically terminated on their expected end date. The 'Left NEIS' (LEFN) suspension reason should be used.

### Cumulative periods of a suspension

NEIS Participants may be suspended for a total of 13 weeks (cumulative) during their period of NEIS Assistance.

There are three exceptions to this rule:

- If the NEIS Participant does not pass the NEIS External Income Test, multiple back-to-back 13 week NEIS Allowance suspensions can occur while the NEIS Participant continues to operate their NEIS Business.
- If the NEIS Participant chooses to take leave for the birth or adoption of a child, they may stop operating their NEIS Business for a maximum of 18 weeks. The NEIS Participant must be the primary carer. The NEIS Provider should use the 'RISP' suspension reason in these instances.
- If the NEIS Participant no longer wishes to participate after receiving 39 weeks or more of NEIS Assistance, the NEIS Participant is entitled to an additional 13 week suspension.



**System step:** The NEIS Provider must enter the recommended suspension in the Department's IT Systems within five Business Days of becoming aware of a relevant change in circumstances.

### Continuing NEIS Assistance during a suspension period

During suspensions where the NEIS Participant has failed the NEIS External Income Test and been suspended from payment of NEIS Allowance:

- the NEIS Provider must continue providing both NEIS Business Mentoring visits and monthly contacts and must record relevant details in the Department's IT Systems.

During all other types of suspension:

- the NEIS Provider should maintain contact with the suspended NEIS Participant to determine the likelihood of the NEIS Business recommencing and still being Commercially Viable.

### Recommence a NEIS Participant after a suspension

There are five situations where the NEIS Provider can ask the Department to recommence a NEIS Participant after a suspension.

- The NEIS Participant resolves the issue that resulted in them being suspended. For example, if the NEIS Participant provides their NEIS Financial Information. The recommencement date is the start date of the suspension. In this case, the NEIS Participant's expected NEIS Assistance end date is not extended.
- The NEIS Provider is satisfied the NEIS Participant is operating their NEIS Business again. For example, where the NEIS Participant was temporarily not operating their NEIS Business due to illness. The recommencement date is the date the NEIS Participant recommenced operating their NEIS Business. In this case, the NEIS Participant's expected NEIS Assistance end date is extended by the length of the suspension.
- The NEIS Participant, who was suspended for not being able to show proof of current NEIS Business insurance, provides proof of insurance. The recommencement date is the date the NEIS Business insurance recommences. In this case the NEIS Participant's expected NEIS Assistance end date is extended by the length of the suspension.

- The NEIS Participant has passed the next NEIS External Income Test. The recommencement date is the first day of the next Financial Quarter. In this case, the NEIS Participant's expected NEIS Assistance end date is not extended because the NEIS Participant is still operating their NEIS Business during the period of this suspension.
- The NEIS Participant on a 'Left NEIS (LEFN)' suspension requests to recommence NEIS Assistance. The recommencement date is the date the NEIS Participant reconnected with their NEIS Provider. In this case, the NEIS Participant's expected NEIS Assistance end date is extended by the length of the suspension.

Before asking the Department to recommence a NEIS Participant, the NEIS Provider must ensure the NEIS Participant's Business Insurance is current and in effect.



**System step:** When NEIS Participants recommence from a suspension, the NEIS Provider must record all relevant financial, insurance and viability details in the Department's IT Systems before submitting the recommencement request.



**System step:** The NEIS Provider must enter the recommended recommencement in the Department's IT Systems.

## Terminate a NEIS Participant

The NEIS Provider can recommend that the Department terminate the NEIS Participant Agreement when:

- the NEIS Participant has chosen to stop operating their NEIS Business for the required hours as specified in their approved NEIS Business Plan, or
- the NEIS Participant is in breach of their NEIS Participant Agreement and is no longer eligible for NEIS Assistance (for example, the NEIS Participant did not provide proof of their current NEIS Business insurance within 13 Business Days).

To terminate a NEIS Participant from NEIS Assistance, the NEIS Provider must enter the termination date in the Department's IT Systems as:

- the last working day the NEIS Participant was operating their NEIS Business (this could be at the NEIS Participant's request)
- the date the Department notified the NEIS Provider that the NEIS Participant's NEIS Participant Agreement should be terminated.

If the NEIS Participant is on a current suspension, the termination date will usually be the date before the suspension start date. The two exceptions are:

- Where the NEIS Participant is suspended because they could not be contacted. In this case, the NEIS Provider must first enter a recommencement from this suspension, from the start date of the suspension, before entering a termination. This is because this suspension type stops the whole fortnightly NEIS payment. The termination date entered must be the Wednesday before the start of the relevant pay period when the suspension was applied.
- Where the NEIS Participant is suspended because they failed the NEIS External Income Test. In this case, the termination date is the last day the NEIS Participant was operating their NEIS Business. This is because only the NEIS Participant's NEIS Allowance is suspended and the NEIS Participant is required to continue operating their NEIS Business during this type of suspension.

The NEIS Provider should tell the terminated NEIS Participant that they can test their eligibility for employment services and Income Support with Services Australia.



**System step:** The NEIS Provider must enter the recommended termination in the Department's IT Systems within five Business Days of becoming aware of a relevant change in circumstances.

### Rights to review

If the NEIS Provider recommends a suspension or termination, and it is approved by the Department, the NEIS Participant may ask for the decision to be reviewed. If the NEIS Participant requests a review of their suspension or termination, the Department must have the decision reviewed by an independent reviewer.

An independent reviewer is a person(s) not involved in the original decision to approve the suspension or termination. An appropriate person is a Department contract manager or Account Manager with knowledge of NEIS. The Department contract manager or Account Manager may consult the Department's NEIS policy area for advice.

The Department must advise the NEIS Participant of the result of the review, in writing, within 10 Business Days of the NEIS Participant's request. The Department only reviews a decision once—there is no further process if the NEIS Participant is dissatisfied with the outcome of the Department's review.

The Commonwealth Ombudsman may investigate how the Department reached a decision or how the Department handled a request for review. However, the Ombudsman cannot substitute a new decision.

(Deed references: Clause 129.3, Clause 129.4, Clause 129.6, Clause 129.6(b), Clause 129.9, Clause 129.11, Clause 129.12)

## Attachment A

## Sources of NEIS External Income

For the purposes of the NEIS External Income Test, NEIS External Income means any gross income that the Australian Taxation Office (ATO) would regard as assessable income, separate to the NEIS Business income.

NEIS External Income includes, but is not limited to:

- interest
- dividends
- rent from investment property
- earnings from Employment (casual or/part-time) outside the NEIS Business
- any lump sum compensation, redundancy or termination payment (see Notes below)
- income from beneficial trusts grants—if the ATO deems this assessable income (excluding small business grants made to the NEIS Business and relating to the operation of the NEIS Business)
- Periodic Superannuation Payments. External Income excludes:
  - NEIS Allowance
  - NEIS Rental Assistance
  - Department of Social Services allowances/pensions
  - Centrelink allowances/pensions
  - DVA allowances/pensions
  - income of the NEIS Participant's partner
  - NEIS Business income
  - lump-sum superannuation payment
  - inheritance.

Notes:

- In some cases, NEIS Business income may include casual, part-time or fixed short-term, full-time wages. If those earnings directly relate to the core NEIS Business activity, and are included in the NEIS Business Plan, they are not considered to be NEIS External Income. However, such earnings, or the duration of any fixed short-term full-time Employment, must not be so significant as to affect the independence of the NEIS Business (that is, it must not affect the requirement for the NEIS Participant to maintain a controlling interest over the NEIS Business). Casual or part-time wages not allowed for in the NEIS Business Plan are considered NEIS External Income for the purposes of the NEIS External Income Test.
- **Lump sum compensation payments:** Lump sum compensation payments that do not include a component for lost earnings or lost capacity to earn are not treated as NEIS External Income under the NEIS External Income Test. However, if a settlement or part settlement includes an amount for lost earnings or lost earnings capacity, this amount is treated as NEIS External Income.
- **Lump sum redundancy or termination payment:** Redundancy payments or termination payments that are not, or cannot, be invested in a roll over fund are treated as NEIS External Income under the NEIS External Income Test.

All capitalised terms in this Guideline have the same meaning as in the jobactive Deed 2015–2022 (the Deed).

This Guideline is not a stand-alone document and does not contain the entirety of Employment Services Providers' obligations. It must be read in conjunction with the Deed and any relevant Guidelines or reference material issued by Department of Education, Skills and Employment under or in connection with the Deed.