Restrictive Practices – What has changed?

The way that restrictive interventions are used, authorised and monitored in Tasmania has changed.

The *Disability Services Act 2011* (DSA) has regulated the use of Restrictive Interventions. The DSA has been replaced by the [*Disability Rights, Inclusion and Safeguarding Act 2024* (the Act)](https://www.legislation.tas.gov.au/view/whole/html/asmade/act-2024-021) that will regulate Restrictive Practices.

The key differences between the DSA and the new Act are:

* The term ‘restrictive intervention’ has become ‘restrictive practice’. The definition of ‘restrictive practice’ under the new Act is broader than the definition of ‘restrictive intervention’ under the DSA.
* The authorisation pathway has changed. Under the new Act, all restrictive practices must be authorised by the Senior Practitioner.

It is important that disability services providers are familiar with the new definition of ‘restrictive practice’ and the authorisation requirements surrounding the use of restrictive practices under the Act. For more information about restrictive practices, see the fact sheets ‘[Restrictive Practices: Information for Providers](https://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/office-of-the-senior-practitioner)’ and ‘[Authorisation of Restrictive Practices](https://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/office-of-the-senior-practitioner)’. Several other fact sheets have also been developed which will assist providers to understand the change from the old Act (2011) to the new Act (2024).

# Restrictive Interventions (as defined in the DSA, the former Act)

With the introduction of the new Act, The *Disability Services Act 2011* (DSA) will no longer regulate restrictive interventions. The DSA defines a Restrictive Intervention as any action that is taken to restrict the rights or freedom of movement of a person with disability for the primary purpose of the behavioural control of the person but does not include such an action that is:

* Taken for therapeutic purposes.
* Taken to enable the safe transportation of the person.
* Authorised under any enactment relating to the provision of mental health services or to guardianship.

The DSA further defines restrictive interventions as either ‘environmental restriction’ or ‘personal restriction’.

* **Environmental restrictions -** are restrictive interventions that consist of the modification of an object, or the environment of the person, to enable the behavioural control of the person but does not include a personal restriction.
* **Personal restrictions -** are restrictive interventions that consists wholly or partially of physical contact with the person to enable the behavioural control of the person, or the taking of an action that restricts the liberty of movement of the person.

# Restrictive Practices (as defined in the new Act)

The *Disability Rights, Inclusion and Safeguarding Act 2024* (the Act) regulates restrictive practices. The definition of restrictive practices is significantly different to the definition of restrictive interventions as defined in the DSA. The new definition is consistent with the NDIS Rules covering behaviour support and restrictive practices.

Restrictive Interventions that were considered ‘environmental restrictions’ and ‘personal restrictions’ under the DSA are similar to restrictive practices included in the Act. However, there are additional restrictive practices that were not regulated by the DSA (such as chemical restraint) that have become restrictive practices under the Act.

The Act reflects the NDIS Rules which define restrictive practices as:

* **Seclusion** – the sole confinement of a person with disability in a room or a physical space at any hour of the day or night where voluntary exit is prevented, or not facilitated, or it is implied that voluntary exit is not permitted.
* **Chemical restraint** – the use of medication or chemical substance for the primary purpose of influencing a person’s behaviour. It does not include the use of medication prescribed by a medical practitioner for the treatment of, or to enable treatment of, a diagnosed mental disorder, a physical illness or a physical condition.
* **Mechanical restraint** – the use of a device to prevent, restrict, or subdue a person’s movement for the primary purpose of influencing a person’s behaviour but does not include the use of devices for therapeutic or non‑behavioural purposes.
* **Physical restraint** –the use or action of physical force to prevent, restrict or subdue movement of a person’s body, or part of their body, for the primary purpose of influencing their behaviour. Physical restraint does not include the use of a hands‑on technique in a reflexive way to guide or redirect a person away from potential harm/injury, consistent with what could reasonably be considered the exercise of care towards a person.
* **Environmental restraint** – restricting a person’s free access to all parts of their environment, including items or activities.
* **Any other practice or intervention determined by the Senior Practitioner to be a restrictive practice** – the Senior Practitioner may determine that a practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability is a restrictive practice for the purposes of the Act. These practices will be published on the Office of the Senior Practitioner website.

The table set out at the end of this fact sheet illustrates the differences between the definition of restrictive intervention and restrictive practice.

# Authorisation Pathway

## *Disability Services Act 2011* (DSA) – Former Pathway

Under the DSA, environmental restrictions may be authorised by the Secretary of the Department of Premier and Cabinet.

Under the DSA, Personal restrictions and/or environmental restrictions may be authorised by the Tasmanian Civil and Administrative Appeals Tribunal (TASCAT).

## *Disability Rights, Inclusion and Safeguarding Act 2024* – New Pathway

Under the new Act all applications to use restrictive practices must be made to the Senior Practitioner. Decisions of the Senior Practitioner may be reviewed by Tasmanian Civil and Administrative Tribunal (TASCAT). Disability services providers seeking to use a restrictive practice must also:

* Appoint an Appointed Program Officer.
* Ensure the person with a disability has an Independent Person.

For more information about:

* Seeking authorisation to use a restrictive practice under the Act, see the fact sheet ‘[Authorisation of Restrictive Practices](https://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/office-of-the-senior-practitioner)’
* The role of the Appointed Program Officer, see the fact sheet ‘[Appointed Program Officer](https://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/office-of-the-senior-practitioner)’.
* The role of the Independent Person, see the fact sheet ‘[Independent Person’](https://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/office-of-the-senior-practitioner).

Any use of a restrictive practice in relation to a person with disability must be consistent with the Principles set out in section 8 of the Act. The principles promote the human rights of people with disability and reflect the United Nations Convention on the Rights of Persons with Disability.

These principles apply to every person, entity and provider who is doing something covered by the Act. The principles can be viewed in full here - Part 1 of the *Disability Rights, Inclusion and Safeguarding Act 2024* (the Act).

There are two principles that relate to restrictive practices. They are:

* Restrictive practices should only be used in very limited and specific circumstances as a last resort and utilising the least restrictive practice and for the shortest period of time possible in the circumstances.
* Restrictive practices should only be used where they are proportionate and justified in order to protect the rights or safety of the person with disability or others.

These principles mean that a restrictive practice should only be:

* Used in very limited and specific circumstances.
* Used as a last resort.
* The least restrictive practice possible.
* Used for the shortest time possible.
* In proportion and justified to protect the rights and safety of the person with disability or others.

# Prohibited Practices

The [*Disability Rights, Inclusion and Safeguarding Act 2024*](https://www.legislation.tas.gov.au/view/whole/html/asmade/act-2024-021) (the Act) defines prohibited practices as:

* A practice or intervention including, but not limited to, specific forms of physical restraint and coercive and punitive approaches, that is of a type, or class, of practice or intervention that is prescribed for the purposes of this definition.

The Act makes the use of prohibited practices unlawful and states that disability service providers must not use prohibited practices.

Tasmania now has a list of practices prohibited in Tasmania. These practices are included in the [*Disability Rights, Inclusion and Safeguarding Regulations 2025*](file:///C%3A%5CUsers%5CDavid.Badcock%5CDownloads%5CDisability%20Rights%2C%20Inclusion%20and%20Safeguarding%20Regulations%202025).

The use of prohibited practices may constitute abuse and neglect of a person with disability and may be subject to criminal charges and fines.

## More Information

This fact sheet is a summary about the changes to the regulation of restrictive practices in Tasmania. If you are interested in how this is described in the Act please read Part 7 of the [*Disability Rights, Inclusion and Safeguarding Act 2024 (the Act)*](https://www.legislation.tas.gov.au/view/whole/html/asmade/act-2024-021)*.*

Additional fact sheets have been prepared to support the community understand new arrangements that come into effect following the Commencement of the Act. They can be found [here](https://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/disability-inclusion-and-safeguarding-act-2024).

Additional resources on positive behaviour support and restrictive practices can also be found on the NDIS website: [Behaviour support resources | NDIS Quality and Safeguards Commission](https://www.ndiscommission.gov.au/rules-and-standards/behaviour-support-and-restrictive-practices/behaviour-support-resources)

For more information the Office of the Senior Practitioner can be contacted by seniorpractitioner@dpac.tas.gov.au or 6166 9199.

# Differences between restrictive interventions and restrictive practices

| **Definition/Term**  | **Disability Services Act 2011 (DSA)**  | **Disability Rights, Inclusion and Safeguarding Act 2024 (DRIS Act)** |
| --- | --- | --- |
| **Restrictive Intervention / Restrictive Practice**  | The DSA defines a Restrictive Intervention as any action that is taken to restrict the rights or freedom of movement of a person with disability for the primary purpose of the behavioural control of the person but does not include such an action that is: 1. taken for therapeutic purposes; or
2. taken to enable the safe transportation of the person; or
3. authorised under any enactment relating to the provision of mental health services or to guardianship.
 | The DRIS Act defines a Restrictive Practice as:* seclusion;
* chemical restraint;
* mechanical restraint;
* physical restraint;
* environmental restraint;
* Any other practice or intervention determined by the Senior Practitioner to be a restrictive practice.
 |
| **Environmental Restriction / Environmental Restraint**  | The DSA defines Environmental Restriction as a restrictive intervention in relation to the person that consists of the modification of an object, or the environment of the person, so as to enable the behavioural control of the person but does not include a personal restriction; | The DRIS Act defines Environmental Restraint as a restraint that restricts a person’s free access to all parts of their environment, including items or activities. |
| **Personal Restriction**  | The DSA defines Personal Restriction as a restrictive intervention in relation to the person that consists wholly or partially of:1. physical contact with the person so as to enable the behavioural control of the person; or
2. the taking of an action that restricts the liberty of movement of the person.
 | The DRIS Act does not contain a definition of ‘Personal Restriction’ and is covered in the new Act in the definition of Physical Restraint.  |
| **Seclusion**  | The DSA does not contain a definition of Seclusion  | The DRIS Act defines Seclusion as the sole confinement of a person with disability in a room or a physical space at any hour of the day or night where voluntary exit is prevented, or not facilitated, or it is implied that voluntary exit is not permitted.  |
| **Chemical Restraint** | The DSA does not contain a definition of Chemical Restraint | The DRIS Act defines Chemical Restraint as the use of medication or chemical substance for the primary purpose of influencing a person’s behaviour. It does not include the use of medication prescribed by a medical practitioner for the treatment of, or to enable treatment of, a diagnosed mental disorder, a physical illness or a physical condition. |
| **Mechanical Restraint**  | The DSA does not contain a definition of Mechanical Restraint | The DRIS Act defines Mechanical Restraint as the use of a device to prevent, restrict, or subdue a person’s movement for the primary purpose of influencing a person’s behaviour but does not include the use of devices for therapeutic or non‑behavioural purposes. |
| **Physical Restraint**  | The DSA does not contain a definition of Physical Restraint  | The DRIS Act defines Physical Restraint as the use or action of physical force to prevent, restrict or subdue movement of a person’s body, or part of their body, for the primary purpose of influencing their behaviour. Physical restraint does not include the use of a hands‑on technique in a reflexive way to guide or redirect a person away from potential harm/injury, consistent with what could reasonably be considered the exercise of care towards a person. |
| **Any other practice or intervention determined by the Senior Practitioner to be a restrictive practice** | The DSA does not contain any restrictive interventions determined by the Senior Practitioner  | The Senior Practitioner may determine that a practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability is a restrictive practice for the purposes of the DRIS Act. |