

1991
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Housing and Community Services)

Disability Services Bill 1991

**A BILL
FOR**

An Act relating to persons with disabilities

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Disability Services Act 1991*.

5 Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

10 (3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

81132 1991/74 (T132/91)

Objects**3. The objects of this Act are—**

- 5 (a) to enable persons with disabilities to receive the services necessary to enable them to achieve their maximum potential as members of the community;
- (b) to enable persons with disabilities to receive services that—
- 10 (i) further their integration into the community and complement services available generally to persons in the community;
- (ii) enable them to achieve a better quality of life including increased independence, employment opportunities and integration in the community; and
- 15 (iii) are provided in ways that promote in the community a positive image of persons with disabilities and enhance their self-esteem;
- (c) to ensure that the quality of life achieved by persons with disabilities as the result of the services provided for them is taken into account in the granting of financial assistance for the provision of those services;
- 20 (d) to encourage innovation in the provision of services for persons with disabilities; and
- (e) to provide a system to administer funding in respect of persons with disabilities that is flexible and responsive to the needs and aspirations of those persons;
- 25 and this Act shall be construed and administered accordingly.

Interpretation**4. In this Act, unless the contrary intention appears—**

“disability”, in respect of a person, means a disability—

- 30 (a) which is attributable to an intellectual, psychiatric, sensory or physical impairment or a combination of those impairments;
- (b) which is permanent or likely to be permanent;
- (c) which results in—
- 35 (i) a substantially reduced capacity of the person for communication, learning or mobility; and

(ii) the need for continuing support services; and

(d) which may or may not be of a chronic episodic nature;

“grant” means a grant under subsection 5 (1);

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“grantee”, in the case of an agreement entered into by a person on behalf of an organisation that is an unincorporated association, means the organisation and that person, severally;

“organisation” means a body (whether or not incorporated) and includes—

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(a) an administrative unit of the Public Service; or

(b) an authority of the Territory;

but does not include a body that is carried on for the purpose of profit or gain to its individual members;

“provider of services” means—

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(a) a person who provides services to a person with disabilities (whether or not those persons are related); or

(b) an organisation that provides services to persons with disabilities;

“research and development activity” means—

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(a) research with respect to the provision of services for persons with disabilities;

(b) investigation of the need for services for persons with disabilities;

(c) investigation of the effects of providing services to persons with disabilities;

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(d) planning for provision of services for persons with disabilities;

(e) the development of proposals for the provision of services for persons with disabilities;

(f) the initiation of services for persons with disabilities;

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(g) the development or implementation of training programs for—

(i) persons engaged in the provision of services; or

(ii) the families of, and other persons who provide care for or assistance to, persons with disabilities; or

(h) any other activities approved under section 8;

5 "researcher" means a person, or an organisation, conducting research and development activities.

Act binds Crown

5. This Act binds the Crown.

Financial assistance for providers of services

10 6. (1) The Minister may approve grants of financial assistance to—

- (a) a provider of services;
- (b) a person with a disability; or
- (c) a researcher;

subject to the prospective grantee entering into an agreement with the Minister under section 7.

15 (2) The Minister shall not approve a grant unless satisfied—

- (a) that the grant would further the principles set out in Schedule 1 and comply with any guidelines referred to in paragraph 10 (1) (a); and
- (b) that the programs and services funded by the grant would comply with the requirements set out in Schedule 2.

20 Terms and conditions

7. (1) A person or an organisation may not receive a grant unless the person or organisation enters into an agreement with the Minister in writing regarding the terms and conditions on which the grant is to be made.

25 (2) The reference in subsection (1) to an agreement between the Minister and an organisation includes, in the case of an unincorporated association, an agreement between the Minister and a person on behalf of the organisation.

(3) An agreement referred to in subsection (1)—

- 30 (a) if it relates to the provision of services—shall specify the objectives to be achieved by or in relation to the person receiving the services; and
- (b) may include provisions relating to the payment by the grantee to the Minister of an amount equal to the amount of the grant or part of the grant in the event of a contravention of a term or condition.

(4) An agreement referred to in subsection (1) is subject to the condition that the grantee shall comply with any guidelines referred to in paragraph 10 (1) (b) that are applicable to the grantee.

5 (5) A reference in an agreement referred to in subsection (1) to a condition includes the condition mentioned in subsection (4).

Review of effectiveness of grants

8. At intervals not exceeding 5 years, the Minister shall review the extent to which—

- 10 (a) a grantee has fulfilled the terms and conditions of grants received by the grantee; and
- (b) the objectives specified in the terms and conditions of a grant have been achieved.

Approval of activities

15 9. (1) The Minister may, by instrument, approve an activity for the purposes of paragraph (h) of the definition of "research and development activity" in section 3.

(2) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Guidelines

20 10. (1) The Minister may, by instrument published in the *Gazette*, issue guidelines, not inconsistent with this Act relating to—

- (a) the making of grants; or
- (b) the detailed application and implications of the principles set out in Schedule 1 and the requirements set out in Schedule 2.
- 25 (2) Without limiting the generality of subsection (1), guidelines may make provision in relation to—
- (a) the terms and conditions on which a grant should be made;
- (b) the manner of calculating grants; or
- (c) the timing of payments.
- 30 (3) A guideline shall be of a general nature and shall not be limited to apply only to a particular person or body.

(4) An instrument issued under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Transitional

11. (1) This section, unless sooner repealed, shall cease to be in force after 31 December 1994.

(2) Notwithstanding subsection 6 (2), where the Minister is satisfied—

- 5 (a) that a grant to a provider of services in relation to a person with a disability would be in the interests of that person;
- (b) that the provider would take adequate steps to ensure that the programs and services funded by the grant would comply with the requirements set out in Schedule 2; and
- 10 (c) that the grant would comply with any guidelines referred to in paragraph 10 (1) (a);

the Minister may approve the grant.

SCHEDULE 1

Subsection 6 (2)

HUMAN RIGHTS PRINCIPLES TO BE FURTHERED IN RELATION TO PEOPLE WITH DISABILITIES

1. All people with disabilities are individuals who have the inherent right to respect for their human worth and dignity.
2. People with disabilities, whatever the origin, nature, type or degree of disability, have the same basic human rights as other members of society and should be enabled to exercise these basic human rights.
3. People with disabilities have the same rights as other members of society to realise their individual capacities for physical, social, emotional and intellectual development.
4. People with disabilities and carers of people with disabilities have the same right as other members of society to services which will support their attaining a reasonable quality of life.
5. People with disabilities have the same right as other members of society to make and actively participate in the decisions which affect their lives and are entitled to appropriate and necessary support to enable participation in, direction and implementation of the decisions which affect their lives.
6. People with disabilities have the same right as other members of society to receive services in a manner which results in the least restriction of their rights and opportunities.
7. People with disabilities have the same right of pursuit of any grievance in relation to services as have other members of society.

SCHEDULE 1—continued

8. People with disabilities who wish to pursue a grievance also have the right to—
 - (a) adequate support to enable pursuit of the grievance; and
 - (b) be able to pursue the grievance without fear of discontinuation of services or recrimination from any person or agency who may be affected by or involved in the pursuit of the grievance.

SCHEDULE 2

Subsection 6 (2)

REQUIREMENTS TO BE COMPLIED WITH IN RELATION TO THE DESIGN AND IMPLEMENTATION OF PROGRAMS AND SERVICES RELATING TO PEOPLE WITH DISABILITIES

1. Services should have as their focus the achievement of a better quality of life for people with disabilities, such as increased independence, education and employment opportunities and integration into the community.
2. Services should contribute to ensuring that the conditions of every-day life of people with disabilities are the same as, or as close as possible to, the conditions of every-day life enjoyed in the general community.
3. Services should be provided as part of local co-ordinated service systems and be integrated with services generally available to members of the community where possible.
4. Services should be tailored to meet the individual needs and goals of people with disabilities.
5. Programs and services should be designed and administered so as to meet the needs of people with disabilities who may experience additional disadvantage as a result of their sex, ethnic origin, physical isolation or Aboriginality.
6. Programs and services should be designed and administered so as to promote recognition of the competence of, and enhance the image of, people with disabilities.
7. Programs and services should be designed and administered so as to promote the participation of people with disabilities in the life of the local community through maximum physical and social integration in that community.
8. Programs and services should be designed and administered so as to ensure that no single organisation providing services exercises control over all or most aspects of the life of a person with disabilities.
9. Organisations providing services, whether those services are provided specifically to people with disabilities or generally to the community, should make available information from which the quality of their services can be judged.
10. Programs and services should be designed and administered so as to provide opportunities for people with disabilities to reach goals and enjoy lifestyles which are valued by the community generally and are appropriate to their age.

SCHEDULE 2—continued

11. Services should be designed and administered so as to ensure that people with disabilities have access to advocacy support where necessary to ensure adequate participation in decision-making about the services they receive.
12. Programs and services should be designed and administered so as to ensure that appropriate avenues exist for people with disabilities to raise and have resolved any grievances about services.
13. Services should be designed and administered so as to provide people with disabilities with, and encourage them to make use of, avenues for continuing participation in the planning and operation of services which they receive. In particular, programs and services provided to persons with disabilities by the Territory and organisations should provide opportunities for consultation in relation to the development of major policy and program changes.
14. Programs and services should be designed and administered so as to respect the rights of people with disabilities to privacy and confidentiality.