



Australian Capital Territory

# **Disability Services Regulation 2014**

**SL2014-12**

made under the

**Disability Services Act 1991**

**Republication No 1**

**Effective: 1 July 2014**

Republication date: 1 July 2014

Regulation not amended

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Disability Services Regulation 2014*, made under the *Disability Services Act 1991* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 July 2014. It also includes any commencement, repeal or expiry affecting this republished law.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial amendments

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$140 for an individual and \$700 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

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made under the

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Australian Capital Territory

# Disability Services Regulation 2014

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made under the

**Disability Services Act 1991**

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**1 Name of regulation**

This regulation is the *Disability Services Regulation 2014*.

**3 Dictionary**

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation.

*Note 2* A definition in the dictionary applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

**4 Notes**

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

**5 Offences against regulation—application of Criminal Code etc**

Other legislation applies in relation to offences against this regulation.

*Note 1* *Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2* *Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

**6 Provider must comply with standards**

A specialist disability service provider must comply with a standard that applies to the provider.

Maximum penalty: 10 penalty units.

**7 Requirement to provide information**

- (1) The director-general may, by written notice given to a specialist disability service provider (a *show cause notice*), require the provider to give the director-general information the director-general reasonably needs to—
  - (a) monitor the quality of services provided by the provider to a person with disability; or
  - (b) investigate any alleged failure to comply with a standard that applies to the provider.
- (2) The information required under subsection (1) may include information about the provider's arrangements with other entities in relation to the provision of specialist disability services.
- (3) The show cause notice must state the time within which the information must be given to the director-general.
- (4) The time stated must be reasonable in the circumstances.
- (5) A specialist disability service provider must comply with a requirement made of the provider under this section.

Maximum penalty (subsection (5)): 10 penalty units.

*Note* The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

## **8 Notice about noncompliance with standards**

- (1) The director-general may give a specialist disability service provider a notice under this section (a *noncompliance notice*) if the director-general has reasonable grounds for believing that the provider is not complying with a standard.
- (2) The noncompliance notice must be in writing and must—
  - (a) state the standard the director-general considers the provider is not complying with; and
  - (b) state the particular matters the director-general considers the provider needs to address; and
  - (c) invite the provider to discuss those matters with the director-general; and
  - (d) state the time within which the provider must respond to the noncompliance notice.
- (3) The time stated must be reasonable in the circumstances.
- (4) The provider responds to the noncompliance notice if the provider—
  - (a) responds in writing to the director-general in relation to the matters identified in the noncompliance notice; or
  - (b) takes action to address the matters identified in the noncompliance notice and tells the director-general in writing of that action.

## **9 Direction to comply with standards**

- (1) This section applies if—
  - (a) the director-general has given a specialist disability service provider a noncompliance notice under section 8; and
  - (b) the provider—
    - (i) has not responded to the notice; or



- (ii) has responded to the notice but the director-general believes on reasonable grounds that the provider is still failing to comply with a standard.
- (2) The director-general may give the provider a direction, in writing to—
  - (a) stop the conduct that is in breach of the standard; or
  - (b) provide the specialist disability service in accordance with the standard; or
  - (c) take action to rectify any consequence of the noncompliance with the standard.
- (3) The direction must state the particular matters the director-general considers the provider needs to address to remedy the breach or comply with the standard.
- (4) The direction must state the time within which the provider must comply with the direction.
- (5) The time stated must be reasonable in the circumstances.
- (6) A specialist disability service provider must comply with a direction given to the provider under this section.

Maximum penalty (subsection (6)): 10 penalty units.

## **10 Critical incident reporting**

- (1) This section applies to a specialist disability service provider if the provider—
  - (a) is providing a specialist disability service to a person with disability; and

- (b) has reasonable grounds to believe there is a serious risk to the life, health or safety of the person.

**Example—serious risk**

circumstances requiring action by the provider to ensure the person with disability's health and safety

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) The provider must notify the director-general of the circumstances of the risk.

*Note* A person must comply with this requirement as soon as possible after the serious risk to life, health or safety arises (see [Legislation Act](#), s 151B).

## 11 Ongoing disclosure obligation

A specialist disability service provider must notify the director-general in writing of any of the following matters if they could have an adverse effect on the provider's ability to comply with the standards:

- (a) an investigation of the provider;
- (b) an arbitration, litigation or other adjudicative proceeding involving the provider.

## 12 Director-general may share information

The director-general may disclose information that is given to the director-general under this regulation if the information—

- (a) is disclosed to a territory authority or an agency of the Commonwealth or a state that has functions in relation to people with disabilities (the *other agency*); and
- (b) relates to the health, safety or wellbeing of a person with disability; and

(c) is relevant to the functions of the other agency in relation to people with disabilities.

*Note* The *Health Records (Privacy and Access) Act 1997* and the *Information Privacy Act 2014* set out circumstances in which personal information about a person may be disclosed.

## Dictionary

(see s 3)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this regulation.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- director-general (see s 163)
- may (see s 146)
- must (see s 146)
- territory authority.

*Note 3* Terms used in this regulation have the same meaning that they have in the [Disability Services Act 1991](#) (see [Legislation Act](#), s 148). For example, the following terms are defined in the [Disability Services Act 1991](#), dict:

- specialist disability services (see s 4 (1))
- specialist disability service provider (see s 5 (1)).

***standard*** means a standard approved by the Minister under the [Act](#), section 5A.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Disability Services Regulation 2014 SL2014-12**

notified LR 30 June 2014

s 1, s 2 commenced 30 June 2014 (LA s 75 (1))

remainder commenced 1 July 2014 (s 2 and see [Disability Services \(Disability Service Providers\) Amendment Act 2014 A2014-27 s 2](#))

### 4 Amendment history

#### **Commencement**

s 2 om LA s 89 (4)

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