

South Australia

## Disability Services Act 1993

An Act to provide for the funding and provision of disability services in accordance with certain principles and objectives; and for other related purposes.

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**The Parliament of South Australia enacts as follows:**

#### **1—Short title**

This Act may be cited as the *Disability Services Act 1993*.

#### **2—Objects of this Act**

The objects of this Act are—

- (a) to set out principles that are to be applied with respect to persons with disabilities;
- (b) to set out objectives for providers of disability services and for researchers;
- (c) to provide for the funding of disability services and research or development activities;
- (d) to ensure that disability services and research or development activities funded under this Act are provided or carried out in a manner that applies those principles and meets those objectives.

### 3—Interpretation

In this Act, unless the contrary intention appears:

**disability** in relation to a person means a disability—

- (a) that is attributable to intellectual, psychiatric, cognitive, neurological, sensory or physical impairment, or a combination of any of those impairments; and
- (b) that is, or is likely to be, permanent; and
- (c) that results in the person having—
  - (i) a reduced capacity for social interaction, communication, learning, mobility, decision making or self care; and
  - (ii) a need for continuing support services,

and includes such a disability notwithstanding that it is of an episodic nature;

**disability services** means services provided, whether wholly or partially, for persons with disabilities or their carers and, without limiting the generality of the expression, includes—

- (a) accommodation services;
- (b) home care and family support services;
- (c) independent living training services;
- (d) information services;
- (e) print disability services;
- (f) recreation services;
- (g) respite care services;
- (h) education or training services;
- (i) advocacy services;
- (j) therapy services;
- (k) equipment services;
- (l) counselling or support services;
- (m) transport services;

**research or development activities** means—

- (a) research in relation to the provision of disability services; or
- (b) investigation of the need for disability services; or
- (c) the planning, development or implementation of disability services; or
- (d) the planning, development or implementation of training programmes—
  - (i) for persons engaged in the provision of disability services; or
  - (ii) for families of persons with disabilities and other persons who care for or assist persons with disabilities; or
- (e) investigation of outcomes achieved by persons with disabilities or their carers through the provision of disability services; or

- (f) any other activities approved by the Minister;

*researcher* means a person, body or authority conducting research or development activities.

#### **4—Funding provisions**

- (1) The Minister may approve the funding, out of money provided for the purpose, of—
  - (a) disability services; and
  - (b) research or development activities.
- (2) For the purposes of subsection (1), money may be granted—
  - (a) to any person, body or authority, including any government, non-government or local government body or authority; or
  - (b) to any person with a disability or a carer of such a person, for the purpose of obtaining the care, support or assistance the person with the disability or the carer may need.
- (3) In performing his or her functions under this section, the Minister must seek to further the objects of this Act.

#### **5—Obligations on service providers and researchers funded under this Act**

- (1) A provider of disability services or researcher funded under this Act must, in providing the services or carrying out the research or development activities, apply the principles and meet the objectives set out in the Schedules to this Act.
- (2) The Minister may, as a condition of approving funding under this Act, require the person, body or authority to whom the money is to be granted to enter into a performance agreement containing such terms and conditions as the Minister thinks will ensure compliance with subsection (1).
- (3) An agreement under this section must be in writing and signed by both parties.
- (4) The Minister should include in such an agreement a condition or conditions that will enable the Minister to monitor adequately the other party's performance under the agreement.

#### **6—Consultation with persons with disabilities and carers**

- (1) Before making any major decisions relating to the development, funding or discontinuance of disability services or research or development activities, the Minister must, to the extent that is practicable, consult with persons with disabilities or carers likely to be affected by the decision.
- (2) The Minister should encourage the informed participation of persons with disabilities and carers in the design, development, management and evaluation of disability services.

#### **7—Review of services or activities funded under this Act**

The Minister must cause a disability service or research or development activity funded under this Act to be reviewed at intervals of not more than three years, for the purpose of assessing the extent to which the principles and objectives set out in the Schedules to this Act are being applied and met.

## 8—Power of delegation

- (1) The Minister may, by instrument in writing, delegate any of the Minister's powers or functions under this Act—
  - (a) to a particular person or body; or
  - (b) to the person for the time being occupying a particular position.
- (2) A delegation under this section—
  - (a) may be absolute or conditional; and
  - (b) does not derogate from the power of the Minister to act in any matter; and
  - (c) is revocable by the Minister at will.

## 9—Act does not give rise to civil liability

Nothing in this Act gives rise to, or can be taken into account in, any civil cause of action.

## 10—Regulations

The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

## 11—Review of this Act

- (1) The Minister must cause a review of this Act and its administration and operation to be conducted upon the expiry of one year from its commencement.
- (2) The review must include consultation with a wide range of providers of disability services and the persons who use those services.
- (3) The results of the review must be embodied in a written report.
- (4) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days of his or her receipt of the report.

## Schedule 1—Principles

- 1 Persons with disabilities, whatever the origin, nature or degree of their disabilities might be, are individuals—
  - (a) who have the inherent right to respect for their human worth and dignity; and
  - (b) who have the same fundamental human rights and responsibilities as other members of the Australian community; and
  - (c) who have the same right as other members of the Australian community to realise their potential for intellectual, physical, social, emotional, sexual and spiritual development; and
  - (d) who have the same right as other members of the Australian community to choose their own lifestyle and generally to control their own lives.
- 2 Persons with disabilities have a right to protection from neglect, abuse, intimidation and exploitation.

- 3 Persons with disabilities have the same right as other members of the Australian community to the assistance and support that will enable them to exercise their rights, discharge their responsibilities and attain a reasonable quality of life.
- 4 In receiving the services that supply such assistance and support, persons with disabilities—
  - (a) have the right to choose between those services, and to choose between the options available within a particular service, so as to provide assistance and support that best meets their individual (including cultural) needs; and
  - (b) have the right to have those services provided in a manner that—
    - (i) involves the least restriction of their rights and opportunities; and
    - (ii) takes into account their individual needs, goals, age and other personal circumstances; and
    - (iii) takes into account any further disadvantage that may be suffered as a result of their gender, ethnic origin, aboriginality, financial situation or location; and
  - (c) have the right to pursue any grievance in relation to those services without fear of the discontinuance of services or of recriminations or retribution from service providers.

## **Schedule 2—Objectives**

- 1 Disability services are to be designed and administered so as—
  - (a) to achieve positive outcomes for persons with disabilities, such as an enhanced image and level of competence, increased independence, increased education, training and employment opportunities and integration into, and participation in the life of, the community; and
  - (b) to ensure that the conditions of the day-to-day life of persons with disabilities are as close as possible to those of other members of the community; and
  - (c) to meet the individual needs and goals of the persons to whom the services are provided taking into account their age and other personal circumstances and any further disadvantage suffered as a result of their gender, ethnic origin, aboriginality, financial situation or location; and
  - (d) to ensure that no single service provider exercises control over all or most of the aspects of the life of a person with a disability; and
  - (e) to render the service provider accountable to all persons who use the service, the carers and advocates of persons with disabilities who use the service, the Minister and all other interested persons, through the provision of information relating to the services provided and their administration; and
  - (f) to ensure that the persons to whom the services are provided have their right to privacy and confidentiality respected; and
  - (g) to ensure that persons with disabilities who wish to use the services have easy access to advocacy support to facilitate their use of the services and their participation in any decision making relating to their use of the services; and

- (h) to ensure that appropriate avenues exist for the persons who use the services to raise and have resolved any grievance they may have in relation to a service or the manner in which it is administered; and
  - (i) to allow, to the extent that is practicable, the persons who use the services the opportunity for informed participation in the design, development, management and evaluation of the services.
- 2 Disability services are to be provided as part of local coordinated service systems and are to be integrated, where it is appropriate and practicable to do so, with services generally available to the community.
- 3 The providers of disability services are to take the following matters into consideration in determining eligibility for and priority of access to the services and in assessing the needs of a person with a disability who is accorded access to a service:
  - (a) the person's wishes;
  - (b) the level of disability and its impact on the person;
  - (c) the needs and capabilities of any carers;
  - (d) the extent of support and assistance (if any) provided or available to the person from all other sources;
  - (e) the implications of any decision for carers and members of the person's family;
  - (f) such other matters as may be considered relevant.

## Legislative history

### Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1993	18	<i>Disability Services Act 1993</i>	8.4.1993	8.4.1993
2013	66	<i>Disability Services (Rights, Protection and Inclusion) Amendment Act 2013</i>	21.11.2013	uncommenced