

NORTHERN TERRITORY OF AUSTRALIA

DISABILITY SERVICES ACT

As in force at 27 October 2004

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 27 October 2004. Any amendments that may come into operation after that date are not included.

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## DISABILITY SERVICES ACT

**An Act to set out the principles to be furthered with respect to persons with disabilities and objectives for providers of services and researchers; to make various provisions for the funding of disability services; and for related purposes**

### 1. Short title

This Act may be cited as the *Disability Services Act*. (See back note 1)

### 2. Interpretation

(1) In this Act, unless the contrary intention appears –

"disability", in respect of a person, means a disability –

- (a) which is attributable to an intellectual, sensory, physical or psychiatric impairment or a combination of those impairments;
- (b) which is permanent or likely to be permanent;
- (c) which results in –
  - (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;

"organisation" means –

- (a) a body corporate;
- (b) a council of a municipality or community government and within the meaning of the *Local Government Act*.

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- (c) a post-school education institution or body within the meaning of the *Education Act*;
- (d) the Charles Darwin University;
- (e) the Menzies School of Health Research;
- (f) an agency of the Territory; or
- (g) a prescribed society, association or body;

"provider of services" means an organisation or a person that provides services to persons with disabilities;

"research and development activities" means –

- (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) the initiation of services for persons with disabilities;
- (d) the planning of the provision of services for persons with disabilities;
- (e) the development of proposals for the provision of services for persons with disabilities;
- (f) the development or implementation of training programs for –
  - (i) persons engaged in the provision of services for; or
  - (ii) the families of, and other persons who provide care for or assistance to,  
persons with disabilities;
- (g) the investigation of outcomes achieved by persons with disabilities through the provision of services; or
- (h) any other activities approved by the Minister;

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

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(2) The Minister may, by notice in the *Gazette*, prescribe a society, association or body for the purposes of the definition of "organisation" in subsection (1).

### **3. Persons eligible for funding**

(1) Subject to subsection (2), the Minister may approve funding, out of money that has been provided for the purpose, to a provider of services, a researcher or a person with a disability.

(2) The Minister shall not approve funding under subsection (1) to a provider of services or a researcher unless the provider or researcher is –

(a) providing services or conducting research and development in a manner which furthers the principles set out in Schedule 2; and

(b) furthering the objectives set out in Schedule 3.

(3) The Minister shall have regard to furthering the objects set out in Schedule 1 when approving funding under subsection (1).

### **4. Terms and conditions**

(1) Where the Minister decides to approve funding to the provider of a service, a researcher or a person with a disability, the Minister may require the provider, researcher or person to enter into an agreement about the terms and conditions with which the provider, researcher or person shall comply while receiving the funding.

(2) An agreement under subsection (1) shall be in writing and signed by both parties.

(3) The terms and conditions of the agreement may include the outcomes to be achieved by persons with disabilities and the rights of persons being provided with services by the provider or persons who are the subject of research programs of the researcher.

### **5. Delegation**

(1) The Minister may, by instrument in writing, delegate any of his or her powers under this Act, other than this power of delegation, to the Chief Executive Officer or an employee within the meaning of the *Public Sector Employment and Management Act* of the Department primarily responsible to the Minister for the administration of this Act.

(2) A power delegated under this section, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

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(3) A delegation under this section does not prevent the exercise of a power by the Minister.

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**SCHEDULE 1**

Section 3(3)

*Objects*

The objects to the furthering of which the Minister shall have regard are –

- (a) to ensure that persons with disabilities receive the services necessary to enable them to achieve their maximum potential as members of the community;
  - (b) to ensure that services provided to persons with disabilities –
    - (i) further the integration of persons with disabilities in the community and complement services available generally to persons in the community;
    - (ii) enable persons with disabilities to achieve positive outcomes such as increased independence, employment opportunities and integration in the community; and
    - (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 provision of services takes into account the outcomes to be achieved by persons with disabilities; and
  - (d) to encourage innovation in the provision of services for persons with disabilities.
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**SCHEDULE 2**

Section 3(2)

*Principles*

The principles which are to be furthered with respect to persons with disabilities are that –

- (a) persons with disabilities are individuals who have the inherent right to respect for their human worth and dignity;
  - (b) persons with disabilities, whatever the origin, nature, type and degree of disability, have the same basic human rights as other members of Australian society;
  - (c) persons with disabilities have the same rights as other members of Australian society to realise their individual capacities for physical, social, emotional and intellectual development;
  - (d) persons with disabilities have the same right as other members of Australian society to services which will support their attaining a reasonable quality of life;
  - (e) persons with disabilities have the same right as other members of Australian society to participate in decisions which affect their lives;
  - (f) persons with disabilities receiving services have the same right as other members of Australian society to receive those services in a manner which results in the least restriction of their rights and opportunities; and
  - (g) persons with disabilities have the same right as other members of Australian society of the pursuit of a grievance in relation to services.
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**SCHEDULE 3**

Section 3(2)

*Objectives*

The objectives for providers of services or researchers are that –

- (a) the services should have as their focus, the achievement of positive outcomes for people with disabilities, such as increased independence, employment opportunities and integration into the community;
- (b) the services should contribute to ensuring that the conditions of the every-day life of people with disabilities are the same as, or as close as possible to, norms and patterns which are valued in the general community;
- (c) the services should be provided as part of the local co-ordinated service systems and be integrated with services generally available to members of the community, wherever possible;
- (d) the services should be tailored to meet the individual needs and goals of the people with disabilities receiving those services;
- (e) the program or the services should be designed and administered to meet the needs of people with disabilities who experience a double disadvantage as a result of their gender, ethnic origin or Aboriginality;
- (f) the program or the services should be designed and administered to promote recognition of the competence of, and enhance the image of, people with disabilities;
- (g) the program or the services should be designed and administered to promote the participation of people with disabilities in the life of the local community through maximum physical and social integration in that community;
- (h) the program or the services should be designed and administered to ensure that no single organisation providing services exercises control over all or most aspects of the life of a person with disabilities;
- (j) the organisations or persons providing services to persons with disabilities, whether those services are provided specially to persons with disabilities or generally to members of the community, should be accountable to those persons with disabilities who use their services, advocates of those persons, the

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Territory and the community generally for the provision of information from which the quality of their services can be judged;

- (k) the program or the services should be designed and administered 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 chronological age;
  - (m) the services should be designed and administered to ensure that persons with disabilities have access to advocacy support where necessary to ensure adequate participation in decision-making about the services they receive;
  - (n) the program or the services should be designed and administered to ensure that appropriate avenues exist for people with disabilities to raise and have resolved any grievances about services;
  - (p) the program or the services should be designed and administered to provide people with disabilities with, and encourage them to make use of, avenues for participating in the planning and operation of services which they receive and the Territory and organisations should provide opportunities for consultation in relation to the development of major policy and program changes;
  - (q) the program or the services should be designed and administered to respect the rights of people with disabilities to privacy and confidentiality; and
  - (r) the activities of the provider of services which relate to persons with disabilities should be conducted in accordance with the Principles set out in Schedule 2.
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### *Notes*

1. The *Disability Services Act* comprises the *Disability Services Act 1993* and amendments made by other legislation, the details of which are specified in the following table:

Act	Number and year	Date of assent by Administrator	Date of commencement
<i>Disability Services Act 1993</i>	No. 31, 1993	9 July 1993	9 July 1993
<i>Statute Law Revision Act 2003</i>	No. 12, 2003	18 Mar 2003	18 Mar 2003
<i>Statute Law Revision Act (No. 2) 2004</i>	No. 54, 2004	15 Sept 2004	27 Oct 2004 (a)

(a) See section 2 and *Gazette* G43, dated 27 October 2004, p. 3.

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### *Table of Amendments*

#### Section

2. Amended by No. 54, 2004, s. 7  
5. Amended by No. 12, 2003, s. 18
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