



Australian Capital Territory

Disability Services Act 1991

A1991-98

Republication No 4

Effective: 22 March 2004 – 11 April 2007

Republication date: 22 March 2004

Last amendment made by A2004-2

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Disability Services Act 1991* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 22 March 2004. It also includes any amendment, repeal or expiry affecting the republished law to 22 March 2004.

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):

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

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

Editorial changes

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 or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

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 *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Disability Services Act 1991

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R4
22/03/04

Disability Services Act 1991
Effective: 22/03/04-11/04/07

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Australian Capital Territory

Disability Services Act 1991

An Act relating to persons with disabilities

1 Short title

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

3 Objects

The objects of this Act are—

- (a) to enable people with disabilities to receive the services necessary to enable them to achieve their maximum potential as members of the community; and
- (b) to enable people with disabilities to receive services that—
 - (i) further their integration into the community and complement services available generally to people in the community; and
 - (ii) enable them to achieve a better quality of life including increased independence, employment opportunities and integration in the community; and
 - (iii) are provided in ways that promote in the community a positive image of people with disabilities and enhance their self-esteem; and
- (c) to ensure that the quality of life achieved by people 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; and
- (d) to encourage innovation in the provision of services for people with disabilities; and
- (e) to provide a system to administer funding in respect of people with disabilities that is flexible and responsive to the needs and aspirations of those people;

and this Act shall be construed and administered accordingly.

4 Definitions for Act

In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

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

- (a) that is attributable to an intellectual, psychiatric, sensory or physical impairment or a combination of those impairments; and
- (b) that is permanent or likely to be permanent; and
- (c) that 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) that may or may not be of a chronic episodic nature.

grant means a grant under section 6 (1).

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—

- (a) an administrative unit; 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—

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

- (b) an organisation that provides services to people with disabilities.

research and development activity means—

- (a) research with respect to the provision of services for people with disabilities; or
- (b) investigation of the need for services for people with disabilities; or
- (c) investigation of the effects of providing services to people with disabilities; or
- (d) planning for provision of services for people with disabilities; or
- (e) the development of proposals for the provision of services for people with disabilities; or
- (f) the initiation of services for people with disabilities; or
- (g) the development or implementation of training programs for—
 - (i) people engaged in the provision of services; or
 - (ii) the families of, and other people who provide care for or assistance to, people with disabilities; or
- (h) any other activities approved under section 9.

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

6 Financial assistance for providers of services

- (1) The Minister may approve grants of financial assistance to—
 - (a) a provider of services; or
 - (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.

- (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 section 10 (1) (a); and
 - (b) that the programs and services funded by the grant would comply with the requirements set out in schedule 2.

7 Terms and conditions

- (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.
- (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)—
 - (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 section 10 (1) (b) that are applicable to the grantee.
- (5) A reference in an agreement referred to in subsection (1) to a condition includes the condition mentioned in subsection (4).

8 Review of effectiveness of grants

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

- (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.

9 Approval of activities

- (1) The Minister may, in writing, approve an activity for section 4, definition of *research and development activity*, paragraph (h).
- (2) An approval is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

10 Guidelines

- (1) The Minister may, in writing, 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.
- (2) Without limiting subsection (1), guidelines may make provision in relation to—
 - (a) the terms and conditions on which a grant should be made; or
 - (b) the manner of calculating grants; or
 - (c) the timing of payments.
- (3) A guideline shall be of a general nature and shall not be limited to apply only to a particular person or body.

(4) A guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Schedule 1 Human rights principles to be furthered in relation to people with disabilities

(see s 6 (2))

- 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 that 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 that affect their lives and are entitled to appropriate and necessary support to enable participation in, direction and implementation of the decisions that affect their lives.
- 6 People with disabilities have the same right as other members of society to receive services in a manner that 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.

- 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 Requirements to be complied with in relation to the design and implementation of programs and services relating to people with disabilities

(see s 6 (2))

- 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 everyday life of people with disabilities are the same as, or as close as possible to, the conditions of everyday life enjoyed in the general community.
- 3 Services should be provided as part of local coordinated 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 to meet the needs of people with disabilities who may experience additional disadvantage because of their sex, sexuality, 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 that 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 that are valued by the community generally and are appropriate to their age.
- 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 that they receive. In particular, programs and services provided to people with disabilities by the Territory and organisations should provide opportunities for consultation in relation to the development of major policy and program changes.

Schedule 2 Requirements to be complied with in relation to the design and implementation of programs and services relating to people with disabilities

Clause 14

- 14 Programs and services should be designed and administered so as to respect the rights of people with disabilities to privacy and confidentiality.

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 and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

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

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

Endnotes

3 Legislation history

3 Legislation history

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

Disability Services Act 1991 No 98

notified 24 December 1991 (Gaz 1991 No S155)
s 1, s 2 commenced 24 December 1991 (s 2 (1))
remainder commenced 24 June 1992 (s 2 (3))

as amended by

Statute Law Revision (Miscellaneous Provisions) Act 1992 No 23 sch 1

notified 4 June 1992 (Gaz 1992 No S71)
commenced 4 June 1992

Acts Revision (Position of Crown) Act 1993 No 44 sch 2

notified 27 August 1993 (Gaz 1993 No S165)
commenced 27 August 1993 (s 2)

Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 27

notified 30 June 1994 (Gaz 1994 No S121)
s 1, s 2 commenced 30 June 1994 (s 2 (1))
sch 1 pt 27 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

Legislation (Consequential Amendments) Act 2001 No 44 pt 104

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 104 commenced 12 September 2001 (s 2 and see Gaz 2001
No S65)

Sexuality Discrimination Legislation Amendment Act 2004 A2004-2 sch 2 pt 2.2

notified LR 18 February 2004
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))
sch 2 pt 2.2 commenced 22 March 2004 (s 2 and CN2004-4)

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.1118

Definitions for Act

s 4 def **grant** am 1992 No 23 sch 1
 def **organisation** am 1994 No 38 sch 1 pt 27
 def **research and development activity** am 1992 No 23 sch 1

Act binds Crown

s 5 om 1993 No 44 sch 2

Approval of activities

s 9 am 1992 No 23 sch 1; 2001 No 44 amdt 1.1119, amdt 1.1120

Guidelines

s 10 am 2001 No 44 amdt 1.1121, amdt 1.1122

Transitional

s 11 exp 1 January 1995 (s 11 (1))

Requirements to be complied with in relation to the design and implementation of programs and services relating to people with disabilities
 sch 2 am A2004-2 amdt 2.3

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1993 No 44	31 August 1993
2	Act 1994 No 38	1 March 1999
3	A2001-44	4 April 2002

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