

2021

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Suzanne Orr)

Carers Recognition Bill 2021

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Carers Recognition Bill 2021

A Bill for

An Act to provide for the recognition of carers, and for other purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Carers Recognition Act 2021*.

4 **2 Commencement**

5 (1) This Act (other than section 16) commences on a day fixed by the
6 Minister by written notice.

7 *Note 1* The naming and commencement provisions automatically commence on
8 the notification day (see [Legislation Act](#), s 75 (1)).

9 *Note 2* A single day or time may be fixed, or different days or times may be
10 fixed, for the commencement of different provisions (see [Legislation Act](#),
11 s 77 (1)).

12 *Note 3* If a provision has not commenced within 6 months beginning on the
13 notification day, it automatically commences on the first day after that
14 period (see [Legislation Act](#), s 79).

15 (2) Section 16 commences on this Act's notification day.

16 **3 Dictionary**

17 The dictionary at the end of this Act is part of this Act.

18 *Note 1* The dictionary at the end of this Act defines certain terms used in this
19 Act, and includes references (*signpost definitions*) to other terms defined
20 elsewhere in this Act.

21 For example, the signpost definition '*care and carer support agency*—
22 see section 7.' means that the term '*care and carer support agency*' is
23 defined in that section.

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

1 **4** **Notes**

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

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

1 **Part 2** **Objects and important concepts**

2 **5** **Objects of Act**

3 The objects of this Act are to—

- 4 (a) recognise, promote and value carers and care relationships; and
- 5 (b) recognise the different needs of people in care relationships; and
- 6 (c) recognise that care relationships benefit the people in those
- 7 relationships and the community; and
- 8 (d) enact care relationship principles relating to the treatment of
- 9 people in care relationships; and
- 10 (e) establish requirements for care and carer support agencies to
- 11 uphold and report on compliance with the care relationship
- 12 principles.

13 **6** **Meaning of *care relationship***

14 (1) For this Act, a person is in a *care relationship* with another person if

15 the first person (the *carer*) provides care to the other person for 1 or

16 more of the following reasons:

- 17 (a) the other person has a disability;
- 18 (b) the other person has a mental disorder or mental illness;
- 19 (c) the other person has an ongoing medical condition;

20 **Examples—ongoing medical condition**

- 21 1 a terminal or chronic illness
- 22 2 chronic pain
- 23 3 dementia
- 24 (d) the other person is aged and frail;

- 1 (e) the other person is a child or young person, and the carer is a
2 kinship carer or a foster carer for the child or young person.

3 **Example—carer**

4 Ms W suffers from multiple sclerosis and requires constant care. Her spouse and
5 3 children aged 21, 16 and 11 share her care and would each be a ‘carer’.

- 6 (2) A regulation may prescribe a relationship to be a care relationship.
- 7 (3) A person is not in a care relationship with another person only
8 because either or both of the following apply:
- 9 (a) the first person is a domestic partner, parent, child or other
10 relative of the other person;
- 11 (b) the first person lives with the other person.
- 12 (4) Also, a person is not in a care relationship with another person if the
13 first person provides care to the other person—
- 14 (a) under a contract of service or a contract for the provision of
15 services; or
- 16 (b) as a volunteer for a charitable, welfare or community
17 organisation, other than an approved kinship and foster care
18 organisation; or
- 19 (c) as part of a course of education or training.
- 20 (5) A carer in a care relationship may include a person receiving financial
21 assistance from the Territory or the Commonwealth government
22 (however described) in relation to carrying out their role as a carer.
- 23 (6) In this section:
- 24 *approved kinship and foster care organisation*—see the *Children*
25 *and Young People Act 2008*, section 502.
- 26 *disability*—see the *Disability Discrimination Act 1992* (Cwlth),
27 section 4 (1).

1 *foster carer*, for a child or young person—see the *Children and*
2 *Young People Act 2008*, section 518 (2).

3 *kinship carer*, for a child or young person—see the *Children and*
4 *Young People Act 2008*, section 516 (2).

5 *mental disorder*—see the *Mental Health Act 2015*, section 9.

6 *mental illness*—see the *Mental Health Act 2015*, section 10.

7 **7 Meaning of *care and carer support agency***

8 For this Act:

9 *care and carer support agency* means any of the following entities:

- 10 (a) a public sector support agency;
- 11 (b) a funded support agency;
- 12 (c) a secondary funded support agency;
- 13 (d) an entity prescribed by regulation.

14 *Note* *Public sector support agency, funded support agency* and *secondary*
15 *funded support agency*—see the dictionary.

1 **Part 3** **Care relationship principles**

2 **8 Care relationship principles—treatment of carers**

- 3 (1) A carer should—
- 4 (a) be respected and recognised as—
- 5 (i) an individual with their own needs; and
- 6 (ii) a carer; and
- 7 (iii) someone with knowledge of the person receiving care; and
- 8 (b) be supported as an individual and as a carer, including during
- 9 changes to the care relationship; and
- 10 (c) be recognised for their efforts and dedication, and for the social
- 11 and economic contribution they make to the community, as a
- 12 carer; and
- 13 (d) if appropriate, have their views and cultural identity taken into
- 14 account, together with the views, cultural identity, needs and
- 15 interests of the person receiving care, in matters relating to the
- 16 care relationship; and
- 17 (e) have their social wellbeing and health recognised in matters
- 18 relating to the care relationship; and
- 19 (f) have the effect of their role as a carer on their participation in
- 20 employment and education recognised and considered in
- 21 decision-making; and
- 22 (g) be provided with support that is timely, responsive, appropriate,
- 23 respectful and accessible; and
- 24 (h) if the carer is receiving support services from a care and carer
- 25 support agency in relation to the care relationship—
- 26 (i) be made aware of the care relationship principles by the
- 27 care and carer support agency; and

- 1 (ii) have their views considered in the assessment, planning,
2 delivery, management and review of support services,
3 programs or policies relating to the carer and the care
4 relationship; and
- 5 (i) if the carer is a child or young person—
- 6 (i) be supported to reach their full potential; and
- 7 (ii) be provided with appropriate support services that take into
8 account the specific needs of children and young people;
9 and
- 10 (j) if the carer is an Aboriginal or Torres Strait Islander person—be
11 provided with culturally appropriate support services that take
12 into account the history, health and wellbeing of the person and
13 the person’s extended family and community; and
- 14 (k) if the carer is an LGBTIQ+ person—be provided with
15 appropriate support services that take into account the specific
16 and unique needs of LGBTIQ+ people; and
- 17 (l) if the carer is culturally and linguistically diverse—be provided
18 with appropriate support services that take into account the
19 specific and unique needs of culturally and linguistically diverse
20 people; and
- 21 (m) if the carer is a person with disability—be provided with
22 appropriate support services that take into account the specific
23 and unique needs of people with disability.

24 *Note* A carer may have 1 or more of the characteristics mentioned in pars (i)
25 to (m).

1 (2) In this section:

2 *Aboriginal or Torres Strait Islander person* means a person who—

3 (a) is a descendant of an Aboriginal person or a Torres Strait
4 Islander person; and

5 (b) identifies as an Aboriginal person or a Torres Strait Islander
6 person; and

7 (c) is accepted as an Aboriginal person or a Torres Strait Islander
8 person by an Aboriginal community or Torres Strait Islander
9 community.

10 **9 Care relationship principles—treatment of people**
11 **receiving care**

12 A person receiving care in a care relationship should have their rights
13 as an individual recognised and realised.

- 1 **Part 4** **Obligations relating to care**
2 **relationship principles**
- 3 **10** **Obligations of care and carer support agencies relating to**
4 **care relationship principles**
- 5 (1) A care and carer support agency must take all practicable measures
6 to ensure that—
- 7 (a) the following people are aware of, and understand, the care
8 relationship principles:
- 9 (i) the agency's employees and agents;
- 10 (ii) people in a care relationship who are receiving support
11 services from the agency in relation to the care
12 relationship; and
- 13 (b) the agency and its employees and agents uphold the care
14 relationship principles in assessing, planning, delivering,
15 managing or reviewing support services, programs and policies
16 in relation to people in care relationships.
- 17 (2) In addition, a care and carer support agency must—
- 18 (a) when planning or reviewing support services and programs in
19 relation to people in care relationships provided by the agency—
20 consult with—
- 21 (i) carers receiving support services from the agency; and
22 (ii) an entity representing carers; and
- 23 (b) when developing the agency's internal human resources
24 policies—consider the care relationship principles in relation to
25 employees who are carers.
- 26 (3) To remove any doubt, this section does not require a care and carer
27 support agency to provide financial assistance or services to people
28 in care relationships.

- 1 **11 Reporting obligations of care and carer support agencies**
- 2 (1) A care and carer support agency must, in each reporting year for the
- 3 agency, prepare a report on the agency’s compliance with its
- 4 obligations under section 10.
- 5 (2) The care and care support agency must—
- 6 (a) if the agency is a public sector support agency—include the
- 7 report in the agency’s annual report for the year; or
- 8 (b) if the agency is a funded support agency—make the report
- 9 publicly available; or
- 10 (c) if the agency is a secondary funded support agency—consider
- 11 making the report publicly available.
- 12 **Example—publicly available**
- 13 published on the agency’s website
- 14 (3) The report must include any information prescribed by regulation.
- 15 (4) In this section:
- 16 ***annual report***, for a public sector support agency—see the *Annual*
- 17 *Reports (Government Agencies) Act 2004*, dictionary
- 18 ***reporting year***—
- 19 (a) for a public sector support agency—see the *Annual Reports*
- 20 *(Government Agencies) Act 2004*, dictionary; and
- 21 (b) for a funded support agency or secondary funded support
- 22 agency—means a financial year.

- 1 **Part 5** **Miscellaneous**
- 2 **12** **Legal rights not affected**
- 3 The Legislative Assembly does not intend by this Act to create in any
4 person any legal right or give rise to any civil cause of action.
- 5 **13** **Inconsistency with other territory laws**
- 6 If a provision in this Act (other than section 11) is inconsistent with a
7 provision in any other territory law, the provision in the other territory
8 law prevails to the extent of the inconsistency.
- 9 **14** **Regulation-making power**
- 10 The Executive may make regulations for this Act.
- 11 **15** **Review of Act**
- 12 (1) The Minister must, as soon as practicable after the end of this Act's
13 5th year of operation—
- 14 (a) review the operation and effectiveness of the Act; and
- 15 (b) present a report of the review to the Legislative Assembly.
- 16 *Note* A reference to an Act includes a reference to any statutory instrument
17 made or in force under the Act (see [Legislation Act](#), s 104).
- 18 (2) This section expires 6 years after the day it commences.
- 19 **16** **New Carers Recognition Regulation**
- 20 (1) The provisions set out in schedule 1 are taken to be a regulation made
21 under section 14.
- 22 (2) The regulation—
- 23 (a) is taken to be notified under the [Legislation Act](#) on the day this
24 Act is notified; and
- 25 (b) commences on the commencement of schedule 1; and

- 1 (c) is not required to be presented to the Legislative Assembly under
2 the [Legislation Act](#), section 64 (1); and
- 3 (d) may be amended or repealed as if it had been made under
4 section 14.
- 5 (3) This section and schedule 1 expire on the day schedule 1 commences.

1 **Schedule 1 New Carers Recognition**
2 **Regulation**

3 (see s 16)



Australian Capital Territory

4 **Carers Recognition Regulation 2021**

5 **Subordinate Law SL2021-**

6 made under the

7 **Carers Recognition Act 2021**

8 **1 Name of regulation**

9 This regulation is the *Carers Recognition Regulation 2021*.

1 **2 Dictionary**

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

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

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

9 **3 Notes**

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

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

13 **4 Annual reporting obligations—prescribed information—**
14 **Act, s 11 (3)**

15 The following information is prescribed:

16 (a) the measures taken by a care and carer support agency to
17 promote the care relationship principles to—

18 (i) people in a care relationship who are receiving support
19 services from the agency in relation to the care
20 relationship; and

21 (ii) the wider community;

22 (b) the measures taken by a care and carer support agency to ensure
23 the following people are aware of and understand the care
24 relationship principles:

25 (i) the agency's employees and agents;

26 (ii) people in a care relationship who are receiving support
27 services from the agency in relation to the care
28 relationship;

- 1 (c) the measures taken by a care and carer support agency and its
2 employees and agents to uphold the care relationship principles
3 in assessing, planning, delivering, managing or reviewing
4 support services, programs and policies in relation to people in
5 care relationships;
- 6 (d) a summary of any consultation undertaken by a care and carer
7 support agency with carers receiving support services from the
8 agency, or entities representing carers, when planning or
9 reviewing support services and programs in relation to people in
10 care relationships provided by the agency;
- 11 (e) a statement about how the agency has incorporated the care
12 relationship principles in the agency's internal human resources
13 policies in relation to employees who are carers.

14 **Examples—par (a)**

- 15 1 distributing printed material about the care relationship principles at
16 community events or service points
- 17 2 providing links to resource materials relating to the care relationship
18 principles on the agency's website
- 19 3 providing information about the care relationship principles to any
20 partner organisations of the agency

21 **Examples—par (b)**

- 22 1 developing and implementing a policy to ensure agency staff are aware
23 of the care relationship principles and how they relate to staff
- 24 2 discussing the Act and the care relationship principles in any induction
25 and relevant training programs offered by the agency

26 **Examples—par (c)**

- 27 1 reviewing the agency's employment policies, such as flexible working
28 arrangements and leave provisions, to ensure compliance with the care
29 relationship principles
- 30 2 developing a survey to assess people's satisfaction with the agency's
31 performance for distribution at assessment and review meetings
32 between agency employees, carers and people receiving care

1 Dictionary

2 (see s 2)

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

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

- 6 • Act
- 7 • entity
- 8 • in relation to.

9 *Note 3* Terms used in this regulation have the same meaning that they have in
10 the *Carers Recognition Act 2021* (see [Legislation Act](#), s 148). For
11 example, the following terms are defined in the *Carers Recognition*
12 *Act 2021*, dict:

- 13 • care and carer support agency (see s 7)
- 14 • care relationship (see s 6)
- 15 • care relationship principles.

1 Dictionary

2 (see s 3)

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

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

- 6 • administrative unit
- 7 • domestic partner (see s 169 (1))
- 8 • entity
- 9 • Executive
- 10 • Minister (see s 162)
- 11 • parent
- 12 • statutory office-holder
- 13 • territory authority
- 14 • territory instrumentality
- 15 • territory law.

16 *care* means ongoing support, assistance or personal care.

17 *care and carer support agency*—see section 7.

18 *care relationship*—see section 6.

19 *care relationship principles* means the principles set out in part 3.

20 *carer*—see section 6 (1).

21 *child*—see the [Children and Young People Act 2008](#), section 11.

22 *funded support agency* means an entity that is—

- 23 (a) funded by a public sector support agency; and
- 24 (b) responsible for providing a support service or program that
- 25 directly impacts on people in care relationships.

- 1 ***personal care*** means—
- 2 (a) assistance with 1 or more of the following:
- 3 (i) bathing, showering or personal hygiene;
- 4 (ii) toileting;
- 5 (iii) dressing or undressing;
- 6 (iv) eating meals;
- 7 (v) communicating; or
- 8 (b) for a person with mobility problems—physical assistance; or
- 9 (c) assistance for people who are mobile but require some form of
- 10 supervision or assistance; or
- 11 (d) assistance or supervision in administering medicine; or
- 12 (e) the provision of substantial emotional support.
- 13 ***public sector support agency*** means a public sector entity that is
- 14 responsible for the assessment, planning, delivery, management and
- 15 review of support services, programs or policies in relation to people
- 16 in care relationships.
- 17 ***public sector entity*** means—
- 18 (a) a Minister; or
- 19 (b) an administrative unit; or
- 20 (c) a statutory office-holder and the staff assisting the statutory
- 21 office-holder; or
- 22 (d) a territory authority; or
- 23 (e) a territory instrumentality; or
- 24 (f) an ACT court or tribunal, when acting in an administrative
- 25 capacity; or
- 26 (g) an entity prescribed by regulation.

- 1 ***secondary funded support agency*** means an entity contracted or
2 funded by a funded support agency to provide a support service or
3 program for which the funded support agency has responsibility.
- 4 ***young person***—see the *Children and Young People Act 2008*,
5 section 12.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 23 June 2021.

2 Notification

Notified under the [Legislation Act](#) on 2021.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
