

2024

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Suzanne Orr)

Disability Inclusion Bill 2024

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THE LEGISLATIVE ASSEMBLY
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(As presented)

(Suzanne Orr)

Disability Inclusion Bill 2024

A Bill for

An Act to promote disability inclusion, 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 *Disability Inclusion Act 2024*.

4 **2 Commencement**

5 This Act commences on a day fixed by the Minister by written notice.

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

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

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

14 **3 Dictionary**

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

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

19 For example, the signpost definition '*protected attribute*—see the
20 [Discrimination Act 1991](#), section 7.' means that the term 'protected
21 attribute' is defined in that section and the definition applies to this Act.

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

26 **4 Notes**

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

1 **Part 2** **Object, important concepts and**
2 **principles**

3 **5 Object of Act**

4 (1) The main object of this Act is to foster a community in the ACT
5 where—

6 (a) people with disability are recognised as an important and
7 valuable part of the diverse community; and

8 (b) ableism is challenged and addressed; and

9 (c) barriers to accessibility and inclusion are identified and
10 removed.

11 (2) The object is to be achieved by requiring the development and review
12 of—

13 (a) disability inclusion strategies for the Territory; and

14 (b) disability inclusion plans for the public sector.

15 (3) In achieving the object, it is the Legislative Assembly's intention that,
16 to the extent reasonably practicable, the operation and administration
17 of this Act is to support and further the principles of—

18 (a) the *Convention on the Rights of Persons with Disabilities*; and

19 (b) any other relevant international human rights instruments
20 affecting people with disability, as in force from time to time.

21 **6 Important concepts**

22 (1) For this Act, *disability inclusion* is a process intended to achieve
23 equity between people with disability and other members of the
24 community by doing the following:

25 (a) ensuring equality of rights, opportunities, responsibilities and
26 outcomes between people with disability and other members of
27 the community;

- 1 (b) redressing disadvantage or discrimination affecting people with
2 disability;
- 3 (c) addressing stigma, stereotyping, prejudice, violence, abuse,
4 neglect or exploitation affecting people with disability;
- 5 (d) accommodating difference by way of structural change;
- 6 (e) addressing barriers to accessibility, including barriers
7 compounded by intersectionality.
- 8 (2) For this Act, *ableism* is a belief that people with disability are, as a
9 result of disability, less worthy of respect and consideration, less able
10 to contribute to or participate in society or of less inherent value than
11 people without disability.

12 **7 Disability inclusion principles**

13 The disability inclusion principles are set out in schedule 1.

1 Part 3 Disability inclusion strategies

2 8 Meaning of *priority inclusion area* and *responsible* 3 *Minister*

4 (1) In this Act:

5 *priority inclusion area*—each of the following is a *priority inclusion*
6 *area*:

7 (a) an area mentioned in the national disability strategy as an area
8 in which improvement must be made to achieve the strategy's
9 objective;

10 (b) an area declared by the Minister.

11 **Examples—par (a)**

- 12 • employment and financial security
- 13 • inclusive homes and communities
- 14 • safety, rights and justice
- 15 • personal and community support
- 16 • education and learning
- 17 • health and wellbeing
- 18 • community attitudes

19 *responsible Minister*, for a priority inclusion area, means the Minister
20 declared by the Chief Minister as the responsible Minister for the
21 priority inclusion area.

22 (2) Each of the following is a notifiable instrument:

23 (a) a declaration under subsection (1), definition of *priority*
24 *inclusion area*, paragraph (b);

25 (b) a declaration under subsection (1), definition of *responsible*
26 *Minister*.

1 (3) In this section:

2 ***national disability strategy*** means the national disability policy
3 framework developed by the Commonwealth, States, Territory and
4 local governments, as in force from time to time.

5 *Note* The national disability strategy is available at
6 www.disabilitygateway.gov.au.

7 **9 Disability inclusion strategies for priority inclusion areas**

8 (1) The responsible Minister for a priority inclusion area must, in
9 consultation with the Minister, make a strategy for the priority
10 inclusion area, to guide the implementation of the disability inclusion
11 principles in the ACT (a ***disability inclusion strategy***).

12 (2) The disability inclusion strategy must—

13 (a) be consistent with the disability inclusion principles; and

14 (b) include strategies that do the following in relation to the priority
15 inclusion area:

16 (i) promote disability inclusion;

17 (ii) reduce, remove and prevent barriers to accessibility;

18 (iii) address ableism; and

19 (c) include information about how the strategy relates to any other
20 significant strategy (however named) that applies in the ACT in
21 relation to the priority inclusion area; and

22 (d) include information for non-government entities about ways to
23 support the disability inclusion strategy, including how to make
24 a disability inclusion plan.

25 (3) The disability inclusion strategy expires 10 years after the day it
26 commences.

- 1 (4) The responsible Minister for the priority inclusion area must, in
2 consultation with the Minister, make a new disability inclusion
3 strategy to replace the expiring disability inclusion strategy
4 (an *expiring strategy*).
- 5 (5) However, if the expiring strategy expires before a new disability
6 inclusion strategy is made, the expiring strategy continues in force
7 until the new strategy commences.
- 8 (6) A disability inclusion strategy is a notifiable instrument.

9 **10 Disability inclusion strategies—consultation**

- 10 (1) In preparing a disability inclusion strategy for a priority inclusion
11 area, the responsible Minister for the priority inclusion area—
- 12 (a) must consult—
- 13 (i) people with disability; and
- 14 (ii) families and carers of people with disability; and
- 15 (iii) the council; and
- 16 (iv) disabled peoples organisations and systemic advocacy
17 groups; and
- 18 (b) may consult with any other significant entity that represents or
19 supports people with disability, or has expertise in relation to
20 disability inclusion.
- 21 (2) The responsible Minister must take all practicable steps to ensure that
22 people consulted under subsection (1) reflect the diversity of the ACT
23 community, including by taking into account the diversity in the
24 community of—
- 25 (a) disabilities and impairments; and
- 26 (b) sexual and gender identities; and
- 27 (c) age groups; and

- 1 (d) cultural and linguistic identities, including Aboriginal or Torres
2 Strait Islander identity; and
- 3 (e) socioeconomic backgrounds.
- 4 (3) The responsible Minister must ensure that consultation is carried out
5 in a way that—
- 6 (a) supports a collaborative working arrangement with the people
7 and entities consulted; and
- 8 (b) seeks to ensure each person and entity consulted understands—
- 9 (i) the consultation process; and
- 10 (ii) how to take part effectively in the consultation and have
11 their views and wishes heard; and
- 12 (c) includes sufficient information, in a language and way each
13 person and entity consulted understands, to allow the person or
14 entity to take part effectively in the consultation and have their
15 views and wishes understood.
- 16 (4) Before making a disability inclusion strategy for a priority inclusion
17 area, the responsible Minister must consider any comments received
18 during consultation.

19 **11 Disability inclusion strategies—annual progress report**

- 20 (1) The responsible Minister for a priority inclusion area must, for each
21 financial year, prepare a report setting out achievements under the
22 disability inclusion strategy for the financial year.
- 23 (2) The report must not, without a person's consent, include information
24 that—
- 25 (a) identifies the person; or
- 26 (b) would allow the person's identity to be worked out.
- 27 (3) The report must include any information prescribed by regulation.

- 1 (4) The report must, not later than 3 months after the end of the financial
2 year—
- 3 (a) if the Minister preparing the report is not the Minister for this
4 Act—be given to the Minister for this Act; and
- 5 (b) be published on an ACT government website.

1 (3) For subsection (1), the head of a public sector body may adopt the
2 disability inclusion plan made by the administrative unit allocated
3 responsibility for the Act under which the body is established.

4 *Note* An administrative unit may be allocated responsibility for an Act under
5 the *Public Sector Management Act 1994*, s 14 (1) (b).

6 (4) The disability inclusion plan must be made publicly available on an
7 ACT government website.

8 (5) The disability inclusion plan must be reviewed—

9 (a) on the commencement of a new disability inclusion strategy that
10 relates to the work of the public sector entity; and

11 (b) at least once every 3 years after the plan is made.

12 (6) For this section, a disability inclusion strategy *relates* to the work of
13 a public sector entity if the priority inclusion area for the disability
14 inclusion strategy relates to—

15 (a) for an entity that is an administrative unit—a matter the
16 administrative unit is allocated responsibility for under the
17 *Public Sector Management Act 1994*, section 14 (2); or

18 (b) for an entity that is a public sector body—the functions of the
19 head of the public sector body.

20 **Example—par (a)**

21 The disability inclusion strategy for education relates to the work of an
22 administrative unit if the administrative unit is allocated responsibility for school
23 education.

24 **Example—par (b)**

25 The disability inclusion strategy for employment relates to the work of an office
26 headed by a statutory office-holder if the office-holder has functions relating to
27 work health and safety.

- 1 **14 Disability inclusion plan—consultation**
- 2 (1) In developing or reviewing a disability inclusion plan, the responsible
- 3 person for the public sector entity—
- 4 (a) must consult—
- 5 (i) people with disability; and
- 6 (ii) families and carers of people with disability; and
- 7 (iii) the council; and
- 8 (iv) disabled peoples organisations and systemic advocacy
- 9 groups; and
- 10 (b) may consult anyone else the responsible person considers
- 11 appropriate, including any other significant entity that represents
- 12 or supports people with disability, or has expertise in relation to
- 13 disability inclusion.
- 14 (2) The responsible person must take all practicable steps to ensure that
- 15 people consulted under subsection (1) reflect the diversity of the ACT
- 16 community, including by taking into account the diversity in the
- 17 community of—
- 18 (a) disabilities and impairments; and
- 19 (b) sexual and gender identities; and
- 20 (c) age groups; and
- 21 (d) cultural and linguistic identities, including Aboriginal or Torres
- 22 Strait Islander identity; and
- 23 (e) socioeconomic backgrounds.
- 24 (3) The responsible person must ensure that consultation is carried out in
- 25 a way that—
- 26 (a) supports a collaborative working arrangement with the people
- 27 consulted; and

- 1 (b) seeks to ensure each person consulted understands—
- 2 (i) the consultation process; and
- 3 (ii) how to take part effectively in the consultation and have
- 4 their views and wishes heard; and
- 5 (c) includes sufficient information, in a language and way each
- 6 person consulted understands, to allow the person to take part
- 7 effectively in the consultation and have their views and wishes
- 8 understood.
- 9 (4) Before making the disability inclusion strategy for a priority inclusion
- 10 area, the responsible person must consider any comments received
- 11 during consultation.

12 **15 Relationship to other inclusion plans**

13 If a public sector entity is required under another territory law to

14 prepare a plan about the inclusion of people with disability, the

15 responsible person for the entity may prepare a single plan that

16 complies with this Act and the other law.

17 **16 Annual report requirements**

- 18 (1) The director-general annual report for an administrative unit must
- 19 include a statement describing measures taken by the administrative
- 20 unit during the reporting year to do the following:
- 21 (a) support the development and implementation of disability
- 22 inclusion strategies;
- 23 (b) develop and implement a disability inclusion plan.
- 24 (2) A public sector body annual report for a public sector body must
- 25 include a statement describing measures taken by the body during the
- 26 reporting year to do the following:
- 27 (a) support the development and implementation of disability
- 28 inclusion strategies;

- 1 (b) for a public sector body headed by a public sector employer—
2 develop and implement a disability inclusion plan.
- 3 (3) An annual report must also include any information prescribed by
4 regulation.
- 5 (4) In this section:
- 6 *director-general annual report*—see the *Annual Reports*
7 *(Government Agencies) Act 2004*, section 6 (1).
- 8 *public sector body annual report*—see the *Annual Reports*
9 *(Government Agencies) Act 2004*, section 7 (2).
- 10 *public sector employer*—see the *Public Sector Management*
11 *Act 1994*, section 152 (1) (a).

1 **Part 5** **Disability Advisory Council**

2 **17** **Establishment of council**

3 The Disability Advisory Council is established.

4 **18** **Functions of council**

5 (1) The council has the following functions:

6 (a) to advise the Minister about issues affecting people with
7 disability, including about the following:

8 (i) the National Disability Insurance Scheme;

9 (ii) the rights of people with disability, including under the
10 *Convention on the Rights of Persons with Disability*;

11 (iii) building an inclusive community;

12 (b) to foster cooperative relationships between people with
13 disability, their families, their carers, relevant organisations,
14 government and the community;

15 **Example—relevant organisation**

16 an organisation representing disabled people

17 (c) to exercise any other function given to the council under a
18 territory law.

19 (2) In this section:

20 *National Disability Insurance Scheme*—see the *National Disability*
21 *Insurance Scheme Act 2013* (Cwlth), section 9.

22 **19** **Membership of council**

23 (1) The council is made up of—

24 (a) the chair; and

25 (b) the deputy chair; and

- 1 (c) at least 5, but not more than 13, ordinary members; and
2 (d) a person appointed to an office prescribed by regulation; and
3 (e) a representative of a body prescribed by regulation.
- 4 (2) The Minister must appoint the following council members:
5 (a) the chair;
6 (b) the deputy chair;
7 (c) the ordinary members.
- 8 *Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.
- 9 (3) The Minister may appoint a person to the council only if the Minister
10 is satisfied that the person—
11 (a) is a person with disability; or
12 (b) is the carer of a person with disability; or
13 (c) is committed to promoting disability inclusion; or
14 (d) has expertise in relation to disability services and disability
15 inclusion.
- 16 (4) A person appointed as the chair must be a person with disability.
- 17 (5) At least half the ordinary members must be people with disability.
- 18 (6) At least 1 ordinary member must be, or have experience as, an unpaid
19 carer of a person with disability.
- 20 (7) The Minister must be satisfied that at least 1 council member is an
21 Aboriginal or Torres Strait Islander person.
- 22 (8) The Minister must take all practicable steps to ensure that the
23 membership of the council reflects the diversity of the ACT
24 community, including by taking into account the diversity in the
25 community of—
26 (a) disabilities and impairments; and

- 1 (b) sexual and gender identities; and
2 (c) age groups; and
3 (d) cultural and linguistic identities, including Aboriginal or Torres
4 Strait Islander identity; and
5 (e) socioeconomic backgrounds.
- 6 (9) An appointment must be for a term of not longer than 2 years.
- 7 (10) A person must not be a council member for more than—
8 (a) 2 consecutive terms; or
9 (b) 3 non-consecutive terms.
- 10 (11) In this section:
11 *Aboriginal or Torres Strait Islander person* means a person who—
12 (a) is a descendant of an Aboriginal person or a Torres Strait
13 Islander person; and
14 (b) identifies as an Aboriginal person or a Torres Strait Islander
15 person; and
16 (c) is accepted as an Aboriginal person or a Torres Strait Islander
17 person by an Aboriginal community or Torres Strait Islander
18 community.

19 **20 Ending appointments**

- 20 The Minister may end the appointment of a council member—
21 (a) for misbehaviour; or
22 (b) if the Minister is satisfied that the member is, or is likely to be,
23 unable to effectively exercise the member's functions; or
24 (c) if the member is absent, other than on leave approved by the
25 Minister, from 3 consecutive meetings of the council.

1 **21 Operation of council**

2 The council may conduct itself in the way it considers appropriate.

3 **22 Arrangements for staff and facilities**

4 The council may arrange with the head of service to use the services
5 of a public servant or Territory facilities.

6 *Note* The head of service may delegate powers in relation to the management
7 of public servants to a public servant or another person (see *Public Sector*
8 *Management Act 1994*, s 18).

9 **23 Annual report by council**

10 The council must prepare an annual report under the *Annual Reports*
11 (*Government Agencies) Act 2004*, section 7.

12 *Note* An annual report direction may include requirements about the council's
13 annual report (see *Annual Reports (Government Agencies) Act 2004*, s 8).

1 **Part 6** **Miscellaneous**

2 **24** **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 **25** **Inconsistency with other territory laws**

6 If a provision of this Act is inconsistent with a provision in any other
7 territory law, the provision in the other territory law prevails to the
8 extent of the inconsistency.

9 **26** **Regulation-making power**

10 The Executive may make regulations for this Act.

11 **27** **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 7 years after the day it commences.

1 **Part 7 Consequential amendment**

2 **28 Annual Reports (Government Agencies) Act 2004**
3 **Section 7 (2), note, new dot point**

4 *after the 4th dot point, insert*

- 5 • the disability advisory council (see *Disability Inclusion Act 2023*,
6 s 23)

Schedule 1 Disability inclusion principles

(see s 7)

1.1 General principles for disability inclusion

- (1) The disability inclusion principles are made up of the following:
 - (a) the principles set out in the *Convention on the Rights of Persons with Disability*;
 - (b) in relation to people in a care relationship—the care relationship principles;
 - (c) the principles for disability inclusion in the ACT community mentioned in section 1.2.
- (2) If a principle mentioned in subsection (1) (b) or (c) is inconsistent with a principle mentioned in subsection (1) (a), the principle mentioned in subsection (1) (a) prevails.
- (3) In this section:

care relationship—see the *Carers Recognition Act 2021*, section 6 (1).

care relationship principles—see the *Carers Recognition Act 2021*, dictionary.

1.2 Principles for disability inclusion in the ACT community

- (1) People with disability are free to participate and engage in all aspects of life in the ACT.
- (2) The abilities, strengths, goals and needs of people with disability develop and change.
- (3) Barriers to accessibility may be compounded by intersectionality.
- (4) Decision-making about the participation and engagement of people with disability must be informed by the experience of the people about whom decisions are being made.

Schedule 1 Disability inclusion principles

Section 1.2

- 1 (5) People with disability have rights under the *Human Rights Act 2004*,
2 the *Disability Services Act 1991* and the *Discrimination Act 1991*,
3 including rights specific to being a person with disability, that must
4 be respected and protected.
- 5 (6) Relationships between people with disability and their families,
6 carers and other significant people are a crucial part of the lives of
7 people with disability and should be preserved.
- 8 (7) People with disability are free to associate with families, carers and
9 other people in a way that they want.
- 10 (8) People with disability should receive appropriate support to access
11 information in a way that is appropriate for their disability to
12 understand decisions to be made and to participate in
13 decision-making that affects them.
- 14 (9) Addressing any disadvantage or vulnerability a person with disability
15 experiences in relation to other attributes, including protected
16 attributes, may enhance their inclusion and participation in the
17 community.
- 18 (10) Advocacy on behalf of people with disability, including self-
19 advocacy and systemic advocacy, should be recognised as essential
20 to advance disability inclusion.

Dictionary

(see s 3)

Note The [Legislation Act](#) contains definitions relevant to this Act. For example:

- administrative unit
- director-general (see s 163)
- entity
- public sector body.

ableism—see section 6 (2).

accessibility means provision for access by a person with disability, on an equal basis with other people, to the following:

- (a) the physical environment;
- (b) transport;
- (c) information and communication (including information and communications systems and technologies);
- (d) facilities and services open or provided to the public.

barrier, to accessibility—

- (a) means anything that hinders the full and equal participation in society of people with disability; and
- (b) includes any physical, architectural, technological, policy, financial or attitudinal barrier to accessibility.

carer—see the [Carers Recognition Act 2021](#), section 6 (1).

Convention on the Rights of Persons with Disabilities means the Convention on the Rights of Persons with Disabilities adopted by the General Assembly of the United Nations on 13 December 2006, as amended and in force for Australia from time to time.

Note The Convention on the Rights of Persons with Disabilities is accessible at www.un.org/development/desa/disabilities.

- 1 **council** means the Disability Advisory Council established under
2 section 17.
- 3 **disability**—
- 4 (a) means any impairment or functional limitation that, in
5 interaction with a barrier to accessibility, hinders the full and
6 equal participation of a person with disability in society; and
- 7 (b) includes an impairment or functional limitation—
- 8 (i) that is permanent, temporary or episodic in nature; and
- 9 (ii) whether or not it can be noticed by others.
- 10 **disability inclusion**—see section 6 (1).
- 11 **disability inclusion plan**—see section 13 (1).
- 12 **disability inclusion principles** means the principles established under
13 section 7.
- 14 **disability inclusion strategy**—see section 9 (1).
- 15 **disabled peoples organisation** means an organisation led by and
16 made up of people with disability.
- 17 **discrimination**—see the [Discrimination Act 1991](#), section 8.
- 18 **impairment** includes physical, mental, intellectual, cognitive,
19 learning, communication or sensory impairment.
- 20 **intersectionality** means the interconnected nature of attributes,
21 including protected attributes, of a person that create overlapping and
22 interdependent systems of disadvantage or discrimination.
- 23 **priority inclusion area**—see section 8 (1).
- 24 **protected attribute**—see the [Discrimination Act 1991](#), section 7.
- 25 **public sector entity**, for part 4 (Disability inclusion plans)—see
26 section 12.
- 27 **responsible Minister**, for a priority inclusion area—see section 8 (1).

