

2010

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Carer Recognition Bill 2010

No. , 2010

(Families, Housing, Community Services and Indigenous Affairs)

**A Bill for an Act to provide for the recognition of
carers, and for related purposes**

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1 **A Bill for an Act to provide for the recognition of**
2 **carers, and for related purposes**

3 The Parliament of Australia enacts:

4 **Part 1—Preliminary**
5

6 **1 Short title**

7 This Act may be cited as the *Carer Recognition Act 2010*.

8 **2 Commencement**

9 This Act commences on the day this Act receives the Royal
10 Assent.

1 **3 Object of Act**

2 The object of this Act is to increase recognition and awareness of
3 carers and to acknowledge the valuable contribution they make to
4 society.

5 **4 Definitions**

6 (1) In this Act:

7 *agent* includes a contractor.

8 *annual report*, in relation to a public service care agency, means
9 an annual report relating to the activities of the agency that is
10 required by a provision of the *Public Service Act 1999*, or by a
11 provision of another Act that establishes the agency.

12 *associated provider* has the meaning given by subsection (2).

13 *carer*: see section 5.

14 *care supports* means policies, programs or services directed to
15 carers or the persons for whom they care.

16 *public service agency* means an Agency within the meaning of the
17 *Public Service Act 1999*.

18 *public service care agency* means a public service agency that is
19 responsible for the development, implementation, provision or
20 evaluation of care supports.

21 *reporting period*, in relation to a public service care agency, means
22 a period of 12 months to which an annual report of the agency
23 relates.

24 *Statement for Australia's Carers*: see section 6.

25 (2) If a public service care agency enters into a contract or funding
26 arrangement with another person or body (the *first entity*) for the
27 first entity to develop, implement, provide or evaluate care
28 supports (the *funded activities*):

29 (a) the first entity is an *associated provider* in relation to the
30 funded activities; and

- 1 (b) if the first entity enters into a contract or funding
2 arrangement with another person or body (the *second entity*)
3 for the second entity to undertake all or part of the funded
4 activities—the second entity is an *associated provider* in
5 relation to the funded activities or the part of the funded
6 activities (as the case requires).
- 7 (3) Subsection (2) does not apply to a contract or funding arrangement
8 that a public service care agency, or another person or body, enters
9 into with a State or Territory.

10 **5 Meaning of *carer***

- 11 (1) For the purpose of this Act, a *carer* is an individual who provides
12 personal care, support and assistance to another individual who
13 needs it because that other individual:
14 (a) has a disability; or
15 (b) has a medical condition (including a terminal or chronic
16 illness); or
17 (c) has a mental illness; or
18 (d) is frail and aged.
- 19 (2) An individual is not a *carer* in respect of care, support and
20 assistance he or she provides:
21 (a) under a contract of service or a contract for the provision of
22 services; or
23 (b) in the course of doing voluntary work for a charitable,
24 welfare or community organisation; or
25 (c) as part of the requirements of a course of education or
26 training.
- 27 (3) To avoid doubt, an individual is not a *carer* merely because he or
28 she:
29 (a) is the spouse, de facto partner, parent, child or other relative
30 of an individual, or is the guardian of an individual; or
31 (b) lives with an individual who requires care.

Part 2 The Statement for Australia's Carers

Section 6

1

2 **Part 2—The Statement for Australia's Carers**

3

4 **6 The Statement for Australia's Carers**

5 The *Statement for Australia's Carers* is set out in Schedule 1.

1

2 **Part 3—Obligations of public service agencies and**
3 **associated providers**

4

5 **7 Obligations of all public service agencies**

6 (1) Each public service agency is to take all practicable measures to
7 ensure that its employees and agents have an awareness and
8 understanding of the Statement for Australia's Carers.

9 (2) Each public service agency's internal human resources policies, so
10 far as they may significantly affect an employee's caring role, are
11 to be developed having due regard to the Statement for Australia's
12 Carers.

13 **8 Additional obligations of public service care agencies**

14 (1) Each public service care agency is to take all practicable measures
15 to ensure that it, and its employees and agents, take action to reflect
16 the principles of the Statement for Australia's Carers in
17 developing, implementing, providing or evaluating care supports.

18 (2) Each public service care agency is to consult carers, or bodies that
19 represent carers, when developing or evaluating care supports.

20 (3) Each public service care agency must prepare a report on its
21 compliance with section 7 and this section in each reporting period.
22 The report must be included in the agency's annual report for the
23 reporting period.

24 (4) Subsection (3) applies, in relation to a particular public service care
25 agency, to:

26 (a) the first full reporting period of the agency that starts on or
27 after the commencement of this Act; and

28 (b) all subsequent reporting periods of the agency.

Section 9

1 **9 Obligations of associated providers**

2 Each associated provider is to take all practicable measures to
3 ensure that:

- 4 (a) its officers, employees and agents have an awareness and
5 understanding of the Statement for Australia's Carers; and
6 (b) it, and its officers, employees and agents, take action to
7 reflect the principles of the Statement in developing,
8 implementing, providing or evaluating care supports.

1

2 **Part 4—Other matters**

3

4 **10 Act does not create legally enforceable obligations etc.**

5 (1) This Act does not create rights or duties that are legally
6 enforceable in judicial or other proceedings.

7 (2) A failure to comply with this Act does not affect the validity of any
8 decision, and is not a ground for the review or challenge of any
9 decision.

10 (3) If a public service agency, or an associated provider, is required by
11 another law of the Commonwealth, or by a law of a State or
12 Territory, to consider particular matters, or to comply with
13 particular requirements, in the exercise of its functions or powers,
14 nothing in this Act is to be taken to require the agency, or the
15 associated provider, to act inconsistently with that law.

16 **11 Act not intended to exclude similar State or Territory laws**

17 This Act is not intended to apply to the exclusion of any law of a
18 State or Territory that establishes a Carers Charter (however
19 described), or that otherwise provides for the recognition of carers.

20 **12 Regulations**

21 The Governor-General may make regulations prescribing matters:

- 22 (a) required or permitted by this Act to be prescribed; or
23 (b) necessary or convenient to be prescribed for carrying out or
24 giving effect to this Act.

1 **Schedule 1—The Statement for Australia's**
2 **Carers**

3 Note: See section 6.
4

- 5 1 All carers should have the same rights, choices and opportunities
6 as other Australians, regardless of age, race, sex, disability,
7 sexuality, religious or political beliefs, Aboriginal or Torres Strait
8 Islander heritage, cultural or linguistic differences, socioeconomic
9 status or locality.
- 10 2 Children and young people who are carers should have the same
11 rights as all children and young people and should be supported to
12 reach their full potential.
- 13 3 The valuable social and economic contribution that carers make to
14 society should be recognised and supported.
- 15 4 Carers should be supported to enjoy optimum health and social
16 wellbeing and to participate in family, social and community life.
- 17 5 Carers should be acknowledged as individuals with their own
18 needs within and beyond the caring role.
- 19 6 The relationship between carers and the persons for whom they
20 care should be recognised and respected.
- 21 7 Carers should be considered as partners with other care providers
22 in the provision of care, acknowledging the unique knowledge and
23 experience of carers.
- 24 8 Carers should be treated with dignity and respect.
- 25 9 Carers should be supported to achieve greater economic wellbeing
26 and sustainability and, where appropriate, should have
27 opportunities to participate in employment and education.
- 28 10 Support for carers should be timely, responsive, appropriate and
29 accessible.

