



New South Wales

Carers Recognition Bill 2010

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to enact a NSW Carers Charter to recognise the contribution to society of persons who care for other persons who have a disability, mental illness or chronic illness or are frail with an aim to enable carers to achieve their maximum potential as members of the community, and
- (b) to require NSW government agencies to take action to reflect the principles of the Charter when providing services that affect carers, and
- (c) to establish a Ministerial Advisory Council for Carers.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 sets out the objects of the proposed Act which include to recognise the valuable contribution of carers to our society and to the people they care for and to enable carers to achieve their maximum potential as members of the community.

Clause 4 defines certain words and expressions used in the proposed Act.

Clause 5 defines the term *carer* for the purposes of the proposed Act. The term means an individual who provides ongoing care or assistance to a person in the target group referred to in the *Disability Services Act 1993*, a person with a mental illness or chronic illness or a person who, because of frailty, requires assistance to carry out everyday tasks. A carer does not include designated service providers under that Act or persons providing care or assistance under a contract of service or as a volunteer. A person is not a carer solely because the person has a relationship of spouse, de facto, parent or guardian with the person that he or she cares for.

Part 2 NSW Carers Charter

Clause 6 provides that the NSW Carers Charter is the Charter set out in proposed Schedule 1.

Clause 7 requires a NSW government agency to take reasonable steps to ensure that its officers, employees and agents are aware of, and understand, the Charter and that the agency takes action to reflect the principles of the Charter when providing services that affect carers.

Clause 8 makes it clear that the proposed Act does not give rise to any civil action.

Part 3 Ministerial Advisory Council for Carers

Clause 9 establishes a Ministerial Advisory Council for Carers.

Clause 10 provides that the Advisory Council consists of the Minister administering the proposed Act, other Ministers who are responsible for providing key support services to carers and persons appointed by the Minister as members who have knowledge of, and experience in, matters relevant to carers. A majority of members must be primary carers.

Clause 11 sets out the functions of the Advisory Council which include to work to advance the interests of carers and promote compliance by NSW government agencies with the proposed Act.

Clause 12 requires the Advisory Council to prepare a report each year for the Minister, and at such other times as the Minister requests, on certain matters including the performance by NSW government agencies of their obligations under the proposed Act.

Part 4 Miscellaneous

Clause 13 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 14 provides for the review of the proposed Act in 5 years.

Schedule 1 NSW Carers Charter

Schedule 1 sets out the provisions of the NSW Carers Charter.

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New South Wales

Carers Recognition Bill 2010

No. , 2010

A Bill for

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

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Carers Recognition Act 2010*. 4

2 Commencement 5

This Act commences on the date of assent to this Act. 6

3 Objects of Act 7

The objects of this Act are as follows: 8

(a) to recognise the valuable contribution of carers to our society and to the people they care for, 9
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(b) to recognise the benefit, including the social and economic benefit, provided by carers to the community, 11
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(c) to ensure the provision of services necessary to enable carers to achieve their maximum potential as members of the community, 13
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(d) to provide, through carers' assessments, for the interests, needs and choices of carers to be considered in decisions about the provision of services that impact on their role, 15
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(e) to identify and address specific needs of families with children and young people who are carers, 18
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(f) to deliver culturally appropriate services for Aboriginal and Torres Strait Islander carers and carers from culturally and linguistically diverse backgrounds. 20
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4 Definitions 23

In this Act: 24

Advisory Council means the Ministerial Advisory Council for Carers established by this Act. 25
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carer—see section 5. 27

NSW Carers Charter means the Charter set out in Schedule 1. 28

NSW government agency means a government department and any statutory body representing the Crown. 29
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5	Meaning of “carer”	1
(1)	For the purposes of this Act, a person is a <i>carer</i> if the person is an individual who provides ongoing care or assistance to any of the following persons:	2
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(a)	a person in the target group, as referred to in section 5 (1) of the <i>Disability Services Act 1993</i> ,	5
		6
(b)	a person with a mental illness or chronic illness,	7
(c)	a person who, because of frailty, requires assistance to carry out everyday tasks.	8
		9
(2)	Despite subsection (1), a person is not a carer for the purposes of this Act:	10
		11
(a)	if he or she provides the ongoing care or assistance as part of a designated service (within the meaning of the <i>Disability Services Act 1993</i>) or under a contract of service, or	12
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(b)	if he or she provides the ongoing care or assistance as a volunteer with a volunteer organisation or charity, or	15
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(c)	only because the person is the spouse of the person to whom the ongoing care or assistance is being provided or is in a de facto relationship with that person (within the meaning of the <i>Property (Relationships) Act 1984</i>) or is the parent or guardian of that person.	17
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Part 2	NSW Carers Charter	1
6	Charter for recognition of carers	2
	The NSW Carers Charter is set out in Schedule 1.	3
7	Obligation to consider Charter	4
(1)	A NSW government agency must take all reasonable steps to ensure that:	5
		6
(a)	the officers, employees and agents of the agency have an awareness and understanding of the NSW Carers Charter, and	7
		8
(b)	the agency takes action to reflect the principles of the Charter when providing services that affect carers.	9
		10
(2)	A NSW government agency must consult with the Advisory Council, and such other bodies representing carers as the agency considers appropriate, when making strategic policy or planning decisions relevant to carers.	11
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8	Legal rights not affected	15
	Nothing in this Act gives rise to, or can be taken into account in, any civil cause of action, and without limiting the generality of the foregoing, nothing in this Act:	16
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(a)	operates to create in any person any legal rights not in existence before the enactment of this Act, or	19
		20
(b)	affects the validity, or provides grounds for review, of any judicial or administrative act or omission.	21
		22

Part 3	Ministerial Advisory Council for Carers	1
9	Establishment of Ministerial Advisory Council for Carers	2
	There is established by this Act a Ministerial Advisory Council for Carers.	3 4
10	Membership and procedure of Advisory Council	5
(1)	The Advisory Council is to consist of the following members:	6
(a)	the Minister administering this Act,	7
(b)	such other Ministers who, in the opinion of the Minister administering this Act, are responsible for the provision of key support services to carers,	8 9 10
(c)	persons appointed as members by the Minister administering this Act who, in the opinion of the Minister, have relevant knowledge of and experience in matters relevant to carers.	11 12 13
(2)	The Minister is to ensure when appointing members to the Advisory Council that the majority of members on the Council are persons who the Minister considers are primary carers.	14 15 16
(3)	Meetings of the Advisory Council are to be co-chaired by the members of the Council who are Ministers.	17 18
(4)	Subject to this section, the Minister may determine the term of office and remuneration of members and the procedure of the Advisory Council, including the procedure for the appointment of deputies of members.	19 20 21 22
11	Functions of Advisory Council	23
(1)	The Advisory Council has the following functions:	24
(a)	to work to advance the interests of carers and promote compliance by NSW government agencies with this Act,	25 26
(b)	to make recommendations to the Minister on fostering compliance by NSW government agencies with this Act,	27 28
(c)	to provide general advice to the Minister on matters relating to carers,	29 30
(d)	to carry out such other functions relating to carers as may be directed by the Minister.	31 32
(2)	Any recommendation given to the Minister may be given either at the request of the Minister or without any such request.	33 34

Clause 12 Carers Recognition Bill 2010

Part 3 Ministerial Advisory Council for Carers

12 Advisory Council to prepare report

The Advisory Council must, as soon as practicable after the beginning of each year and on any other occasion requested by the Minister, prepare a report for the Minister outlining:

- (a) the performance by NSW government agencies of their obligations under this Act, and
- (b) the compliance or non-compliance of NSW government agencies with this Act.

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Part 4	Miscellaneous	1
13	Regulations	2
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	3 4 5 6
14	Review of Act	7
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	8 9 10
(2)	The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.	11 12
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	13 14

Schedule 1	NSW Carers Charter	1
(a)	Carers must be treated with respect and dignity.	2
(b)	Carers must be recognised as having their own unique and individual needs.	3
(c)	Carers' health and wellbeing is to be given due consideration.	4
(d)	Carers' needs are to undergo assessment with an aim to provide timely and appropriate support and assistance.	5 6
(e)	The views and knowledge that carers have in regard to the individual needs of the persons they care for must be recognised and included in the assessment, planning, delivery and review of services that impact on them in their role as carers.	7 8 9 10
(f)	The relationship between carers and the persons they care for should be respected by the community, service providers and Government.	11 12
(g)	The diversity of carers' individual needs should be identified and acknowledged, taking into consideration cultural differences, age, disability, religion, socio-economic status, gender identification and place of residence.	13 14 15
(h)	The responsibilities of children and young people as carers should be minimised.	16 17
(i)	Remote and rurally based carers face additional difficulties caused by isolation that should be given due consideration in service delivery.	18 19
(j)	NSW government agencies must ensure programs and services for carers are responsive, timely, coordinated, innovative, flexible and appropriate.	20 21
(k)	Complaints made by carers in relation to services that impact on them and the persons they care for must be given due attention and consideration.	22 23
(l)	Services for Aboriginal and Torres Strait Islander carers, and carers from culturally and linguistically diverse backgrounds, must be culturally relevant.	24 25
(m)	Information must be provided to carers on their rights when dealing with NSW government agencies.	26 27