



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 role and contribution to our community of persons who care for other persons who have a disability, a medical condition (such as a terminal or chronic illness), a mental illness or are frail and aged, and
- (b) to require certain public sector agencies to take action to reflect the principles of the NSW Carers Charter when providing services that affect carers, and
- (c) to establish a Carers Advisory Council.

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 enact a Carers Charter to recognise the role and contribution of carers to our community and to the people they care for and to increase the awareness of the valuable contribution that carers make to our 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 personal care, support and assistance to a person in the target group (as referred to in section 5 (1) of the *Disability Services Act 1993*), a medical condition (including a terminal or chronic illness), a mental illness or is frail and aged. The term does not include persons providing care, support and assistance under a contract of service (or a contract for the provision of services) or in the course of doing voluntary work for a charitable, welfare or community organisation or as part of the requirements of a course of education or training. The proposed section provides that a person is not a carer merely because the person is the spouse or de facto partner of, or parent, guardian, child or other relative of, the other person or lives with the other person.

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 each public sector agency:

- (a) to take all reasonable steps to ensure that the members of staff and agents of the agency have an awareness and understanding of the NSW Carers Charter, and
- (b) to consult with such bodies representing carers as the agency considers appropriate when developing policies that impact on carers, and
- (c) to ensure that the agency's internal human resources policies, so far as they may significantly affect the role of a member of staff of the agency as a carer, are developed having due regard to the NSW Carers Charter.

Clause 8 places additional obligations on public sector agencies that provide services directed at carers or persons being cared for by carers (*human service agencies*). The proposed section requires each human service agency:

- (a) to take all reasonable steps to ensure that the agency, and the members of staff and agents of the agency, take action to reflect the principles of the NSW Carers Charter, and
- (b) to prepare a report on its compliance with the proposed Act in each reporting period which is to be included in the agency's annual report for the reporting period.

Clause 9 makes it clear that the proposed Act does not give rise to any civil action.

Part 3 Carers Advisory Council

Clause 10 establishes a Carers Advisory Council.

Clause 11 provides that the Carers Advisory Council is to consist of not more than 10 members appointed by the Minister administering the proposed Act (*the Minister*) who, in the opinion of the Minister, are representatives of key carers groups or are representatives of carer interests.

Clause 12 sets out the functions of the Carers Advisory Council which are the following:

- (a) to advance the interests of carers,
- (b) to review and make recommendations to the Minister on any legislative or policy proposal, or any other matter, relating to carers referred to the Carers Advisory Council by the Minister,
- (c) to carry out such other functions relating to carers as may be directed by the Minister.

Part 4 Miscellaneous

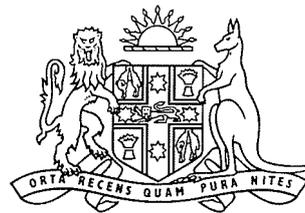
Clause 13 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 14 contains a transitional provision.

Clause 15 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.



New South Wales

Carers (Recognition) Bill 2010

Contents

	Page
Part 1 Preliminary	
1 Name of Act	2
2 Commencement	2
3 Objects of Act	2
4 Definitions	2
5 Meaning of "carer"	3
Part 2 NSW Carers Charter	
6 Charter for recognition of carers	4
7 Obligations of public sector agencies	4
8 Additional obligations of human service agencies	4
9 Legal rights not affected	4
Part 3 Carers Advisory Council	
10 Establishment of Carers Advisory Council	5

Carers (Recognition) Bill 2010

Contents

	Page
11 Membership and procedure of Carers Advisory Council	5
12 Functions of Carers Advisory Council	5
Part 4 Miscellaneous	
13 Regulations	6
14 Transitional provision	6
15 Review of Act	6
Schedule 1 NSW Carers Charter	7



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.

Clause 1 Carers (Recognition) Bill 2010

Part 1 Preliminary

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: 8

(a) to enact a Carers Charter to recognise the role and contribution of carers to our community and to the people they care for, and 9
10

(b) to increase the awareness of the valuable contribution that carers make to our community. 11
12

4 Definitions 13

In this Act: 14

carer—see section 5. 15

exercise a function includes perform a duty. 16

function includes a power, authority or duty. 17

human service agency means a public sector agency that provides services directed at carers or persons being cared for by carers. 18
19

NSW Carers Charter means the Charter set out in Schedule 1. 20

parent, of another person, includes a person who has been allocated parental responsibility or has care responsibility for the other person under the *Children and Young Persons (Care and Protection) Act 1998*. 21
22
23

public sector agency means any of the following: 24

(a) a Division of the Government Service, 25

(b) an area health service or statutory health corporation (within the meaning of the *Health Services Act 1997*), 26
27

(c) the NSW Police Force, 28

(d) a NSW Government agency or other authority of the State, 29

(e) a local council, 30

(f) a State owned corporation, 31

(g) any other person or body that is prescribed by the regulations for the purposes of this definition. 32
33

reporting period, for a human service agency, means a period of 12 months to which an annual report of the agency relates.

1
2

5 Meaning of “carer”

3

- (1) For the purposes of this Act, a person is a *carer* if the person is an individual who provides ongoing personal care, support and assistance to any other individual who needs it because that other individual:
- (a) is in the target group (as referred to in section 5 (1) of the *Disability Services Act 1993*), or
- (b) has a medical condition (including a terminal or chronic illness), or
- (c) has a mental illness, or
- (d) is frail and aged.
- (2) Despite subsection (1), a person is not a carer for the purposes of this Act in respect of care, support and assistance that the person provides:
- (a) under a contract of service or a contract for the provision of services, or
- (b) in the course of doing voluntary work for a charitable, welfare or community organisation, or
- (c) as part of the requirements of a course of education or training.
- (3) To avoid doubt, a person is not a carer of another person for the purposes of this Act merely because the person:
- (a) is the spouse or de facto partner of the person, or
- (b) is the parent, guardian, child or other relative of the other person, or
- (c) lives with the other person.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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	Obligations of public sector agencies	4
(1)	A public sector agency must take all reasonable steps to ensure that the members of staff and agents of the agency have an awareness and understanding of the NSW Carers Charter.	5 6 7
(2)	A public sector agency must consult with such bodies representing carers as the agency considers appropriate when developing policies that impact on carers.	8 9 10
(3)	A public sector agency's internal human resources policies, so far as they may significantly affect the role of a member of staff of the agency as a carer, are to be developed having due regard to the NSW Carers Charter.	11 12 13 14
8	Additional obligations of human service agencies	15
(1)	A human service agency must take all reasonable steps to ensure that the agency, and the members of staff and agents of the agency, take action to reflect the principles of the NSW Carers Charter.	16 17 18
(2)	A human service agency must prepare a report on its compliance with this Act in each reporting period. The report must be included in the agency's annual report for the reporting period.	19 20 21
9	Legal rights not affected	22
(1)	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:	23 24 25
(a)	operates to create in any person any legal rights not in existence before the enactment of this Act, or	26 27
(b)	affects the validity, or provides grounds for review, of any judicial or administrative act or omission.	28 29
(2)	If a public sector agency is required by another law to consider particular matters, or to comply with particular requirements, in the exercise of its functions, nothing in this Act is to be taken to require the agency to act inconsistently with that law.	30 31 32 33

Part 3	Carers Advisory Council	1
10	Establishment of Carers Advisory Council	2
	There is established by this Act a Carers Advisory Council.	3
11	Membership and procedure of Carers Advisory Council	4
(1)	The Carers Advisory Council is to consist of not more than 10 members appointed by the Minister.	5 6
(2)	The Minister is to appoint as members persons who, in the opinion of the Minister, are representatives of key carers groups or are representatives of carer interests.	7 8 9
(3)	The Minister is to appoint a member of the Carers Advisory Council as its Chairperson.	10 11
(4)	Subject to this section and the regulations, a member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	12 13 14 15
(5)	The Minister may determine the remuneration of members and the procedure of the Carers Advisory Council, including the procedure for the appointment of deputies of members.	16 17 18
(6)	The Minister may remove a member from office at any time.	19
12	Functions of Carers Advisory Council	20
	The Carers Advisory Council has the following functions:	21
(a)	to advance the interests of carers,	22
(b)	to review and make recommendations to the Minister on any legislative or policy proposal, or any other matter, relating to carers referred to the Carers Advisory Council by the Minister,	23 24 25
(c)	to carry out such other functions relating to carers as may be directed by the Minister.	26 27

Clause 13 Carers (Recognition) Bill 2010

Part 4 Miscellaneous

Part 4	Miscellaneous	1
13	Regulations	2
(1)	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
(2)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.	7 8
14	Transitional provision	9
	Section 8 (2) does not apply to a reporting period of a human service agency that commenced before the commencement of this Act.	10 11
15	Review of Act	12
(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.	13 14 15
(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.	16 17
(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.	18 19

Schedule 1	NSW Carers Charter	1
	(Section 6)	2
(a)	The valuable social and economic contribution that carers make to the community and the persons for whom they care should be recognised and supported.	3 4 5
(b)	Carers' health and wellbeing are to be given due consideration.	6
(c)	The views and needs of carers and the views, needs and best interests of the persons for whom they care must be taken into account in the assessment, planning, delivery and review of services provided to persons who are cared for.	7 8 9 10
(d)	Carers should be referred to, and made aware of, appropriate services to assist carers in their caring role. Such referrals should be made after an assessment of the needs of carers or as part of the assessment or provision of services to the person being cared for.	11 12 13 14
(e)	The relationship between carers and the persons for whom they care should be respected.	15 16
(f)	Carers are to be acknowledged and recognised as having their own individual needs within and beyond their caring role. This acknowledgement and recognition is to take into consideration Aboriginal or Torres Strait Islander culture, age, disability, religion, socio-economic status, cultural differences, gender identification and place of residence.	17 18 19 20 21
(g)	Children and young people who are carers have the same rights as all children and young people.	22 23
(h)	Children and young people who are carers face additional difficulties and burdens and should be supported in overcoming these difficulties and burdens.	24 25
(i)	Carers should have the same rights, choices and opportunities as other Australians.	26 27
(j)	Carers' choices in their caring role should be supported and recognised, including the recognition of carers in the assessment, planning, delivery and review of services that impact on carers and their role as carers.	28 29 30
(k)	The additional difficulties faced by remote and rurally based carers caused by isolation should be recognised and acknowledged.	31 32

Carers (Recognition) Bill 2010

Schedule 1 NSW Carers Charter

-
- | | | |
|-----|--|--------|
| (l) | Support for carers should be timely, responsive, appropriate and accessible. | 1 |
| (m) | Carers' unique knowledge and experience should be acknowledged and recognised. | 2
3 |