

# Carers (Recognition) Act 2010 No 20

[2010-20]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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## Contents

<b>Long title</b> .....	4
<b>Part 1 Preliminary</b> .....	4
1 Name of Act .....	4
2 Commencement .....	4
3 Objects of Act .....	4
4 Definitions .....	4
5 Meaning of “carer” .....	5
<b>Part 2 NSW Carers Charter</b> .....	6
6 Charter for recognition of carers .....	6
7 Obligations of public sector agencies .....	6
8 Additional obligations of human service agencies .....	6
9 Legal rights not affected .....	6
<b>Part 3 Carers Advisory Council</b> .....	7
10 Establishment of Carers Advisory Council .....	7
11 Membership and procedure of Carers Advisory Council .....	7
12 Functions of Carers Advisory Council .....	7
<b>Part 4 Miscellaneous</b> .....	7
13 Regulations .....	7
14 Transitional provision .....	8
15 Review of Act .....	8

**Schedule 1 NSW Carers Charter ..... 8**

# Carers (Recognition) Act 2010 No 20



New South Wales

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Carers (Recognition) Act 2010*.

### 2 Commencement

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

### 3 Objects of Act

The objects of this Act are:

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

### 4 Definitions

In this Act:

**carer**—see section 5.

**exercise** a function includes perform a duty.

**function** includes a power, authority or duty.

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

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

**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.*

**public sector agency** means any of the following:

- (a) a Division of the Government Service,
- (b) a local health district or statutory health corporation (within the meaning of the *Health Services Act 1997*),
- (c) the NSW Police Force,
- (d) a NSW Government agency or other authority of the State,
- (e) a local council,
- (f) a State owned corporation,
- (g) any other person or body that is prescribed by the regulations for the purposes of this definition.

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

## 5 Meaning of “carer”

- (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 a person with disability within the meaning of the *Disability Inclusion Act 2014*,  
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.

## **Part 2 NSW Carers Charter**

### **6 Charter for recognition of carers**

The NSW Carers Charter is set out in Schedule 1.

### **7 Obligations of public sector agencies**

- (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.
- (2) A public sector agency must consult with such carers or bodies representing carers as the agency considers appropriate when developing policies that impact on carers.
- (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.

### **8 Additional obligations of human service agencies**

- (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.
- (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.

### **9 Legal rights not affected**

- (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:
  - (a) operates to create in any person any legal rights not in existence before the enactment of this Act, or
  - (b) affects the validity, or provides grounds for review, of any judicial or administrative act or omission.
- (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.

## Part 3 Carers Advisory Council

### 10 Establishment of Carers Advisory Council

There is established by this Act a Carers Advisory Council.

### 11 Membership and procedure of Carers Advisory Council

- (1) The Carers Advisory Council is to consist of persons appointed as members by the Minister who, in the opinion of the Minister, have relevant knowledge of and experience in matters relevant to carers (the **appointed members**).
- (1A) Of the appointed members of the Council, 1 is to be appointed as Chair of the Council and 1 is to be appointed as Deputy Chair of the Council.
- (2) The Minister is to ensure when appointing members to the Carers Advisory Council that the majority of members on the Council are persons who the Minister considers are carers.
- (3) (Repealed)
- (4) Subject to this section, the Minister may determine the term of office and remuneration of members and the procedure of the Carers Advisory Council, including the procedure for the appointment of deputies of members and ex-officio members.

**Note—**

Certain incidental powers to remove members are implied in the powers of appointment in this section (see section 47 of the [Interpretation Act 1987](#)).

### 12 Functions of Carers Advisory Council

The Carers Advisory Council has the following functions:

- (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

### 13 Regulations

- (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.
- (2) The regulations may contain provisions of a savings or transitional nature consequent

on the enactment of this Act.

#### **14 Transitional provision**

Section 8 (2) does not apply to a reporting period of a human service agency that commenced before the commencement of this Act.

#### **15 Review of Act**

- (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.
- (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.
- (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.

### **Schedule 1 NSW Carers Charter**

(Section 6)

#### **1 Carers make a valuable contribution to the community**

- (a) NSW recognises the valuable social and economic contribution that carers make to the community.
- (b) Carers should have the same rights, choices and opportunities as other Australians.
- (c) Carers' unique knowledge and experience should be acknowledged and recognised.
- (d) The relationship between carers and the people they care for should be respected.

#### **2 Carers' health and well-being is important**

- (a) Carers should be supported to enjoy optimum health and well-being and to participate in family, social and community life, employment and education.
- (b) Carers should be supported to balance their caring role with other roles, such as work and education.

#### **3 Carers are diverse and have individual needs within and beyond their caring role**

- (a) The diverse needs of carers should be acknowledged and recognised in policy, programs and service delivery, taking into consideration culture and language, age, disability, religion, socio-economic status, place of residence, gender identity and sexual orientation.
- (b) Aboriginal and Torres Strait Islander values, heritage and concepts of caring should be



respected and valued.

- (c) The additional challenges faced by carers who live in rural and remote areas should be acknowledged and recognised.
- (d) Children and young people who are carers should be supported to reach their full potential.

#### **4 Carers are partners in care**

- (a) The choices, views and needs of carers and of the people they care for should be taken into account in the assessment, planning, delivery and review of services provided to the people they care for.
- (b) Carers should be referred to, and assisted to access, appropriate supports and services.
- (c) Support for carers should be timely, responsive, appropriate and accessible.