

Queensland



DISABILITY SERVICES ACT 1992

**Reprinted as in force on 11 February 1997
(includes amendments up to Act No. 37 of 1996)**

Reprint No. 1A

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Information about this reprint

This Act is reprinted as at 11 February 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about when provisions commenced.

Queensland



DISABILITY SERVICES ACT 1992

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	3
2	Commencement	3
3	Purposes of Act	3
4	Act binds Crown	4
PART 2—BASIC CONCEPTS		
5	Disabilities covered by this Act	4
6	Meaning of “service provider”	4
7	Meaning of “service developer”	5
8	Meaning of “grantee”	5
PART 3—PRINCIPLE THAT PEOPLE WITH DISABILITIES HAVE THE SAME HUMAN RIGHTS AS OTHERS		
9	Principle that people with disabilities have the same human rights as others	6
PART 4—OBJECTIVES FOR THE DEVELOPMENT AND IMPLEMENTATION OF PROGRAMS AND SERVICES FOR PEOPLE WITH DISABILITIES		
10	Objectives in Part to be promoted by service developers and service providers	7
11	Focus on the development of the individual	7
12	Focus on a lifestyle the same as other people and appropriate for age ...	7
13	Coordination of, and integration of, services with general services	8
14	Services to be tailored to meet individual needs and goals	8
15	People with disabilities experiencing additional disadvantages	8
16	Promotion of competency, positive image and self-esteem	8
17	Inclusion in community	8

18	No single organisation to exercise control over life of person with disability	9
19	Certain service providers to make information available	9
20	Access to advocacy support	9
21	Raising and resolving grievances	9
22	Participation in planning etc. of services	9
23	Respect for privacy and confidentiality	10
24	Consideration etc. for others involved with people with disabilities	10

PART 5—GRANT OF FINANCIAL ASSISTANCE

25	Persons eligible to apply for funding	10
26	Ministerial approval of grants of financial assistance	10
27	Agreement about conditions to which financial assistance is subject	11
28	Minister's powers not limited by agreement etc.	11

PART 6—POWERS OF CHIEF EXECUTIVE IF SUSPICION THAT CONDITION NOT COMPLIED WITH

29	Powers of chief executive if suspicion that a condition not complied with	11
30	Chief executive may request grantee to provide explanation	12
31	Chief executive may suspend further payments	12
32	Chief executive may request production etc. of books and records and examine them etc.	12
33	Chief executive may request Auditor-General to audit books etc.	12

PART 7—MISCELLANEOUS

34	Delegation by Minister of powers under Act	13
35	Delegation by chief executive	13

ENDNOTES

1	Index to endnotes	14
2	Date to which amendments incorporated	14
3	Key	14
4	Table of earlier reprints	15
5	List of legislation	15
6	List of annotations	15

DISABILITY SERVICES ACT 1992

[as amended by all amendments that commenced on or before 11 February 1997]

An Act relating to provision of services to people with disabilities

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Disability Services Act 1992*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Purposes of Act

3. The purposes of the Act are—
 - (a) to affirm the principle that people with disabilities have the same rights as other members of society; and
 - (b) to set out the objectives to be promoted in the development and implementation of programs and services for people with disabilities by public sector units, by service providers or service developers receiving funding under this Act and by other bodies; and
 - (c) to establish a funding mechanism so that services are provided to, and services are developed for, people with disabilities in a way that assists them achieve their maximum potential as members of society; and

- (d) to encourage innovative programs and services for people with disabilities.

Act binds Crown

4. This Act binds the Crown in right of the State and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

PART 2—BASIC CONCEPTS

Disabilities covered by this Act

5.(1) This Act applies to a person with a disability—

- (a) that is attributable to an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment or a combination of impairments; and
- (b) that results in—
 - (i) a substantial reduction of the person’s capacity for communication, social interaction, learning or mobility; and
 - (ii) the person needing support.

(2) The disability must be permanent or likely to be permanent.

(3) The disability may be, or may not be, of a chronic episodic nature.

Meaning of “service provider”

6.(1) A “service provider” is—

- (a) a natural person who provides services to people with disabilities (whether or not the service provider and the people with disabilities are related); or
- (b) an organisation that provides services to people with disabilities, including—

Disability Services Act 1992

- (i) a public sector unit; and
 - (ii) a local authority; and
 - (iii) an institution that provides tertiary education; and
 - (iv) another organisation (whether or not incorporated) that is not a public sector unit, local authority or institution that provides tertiary education.
- (2) The service provider may provide the services—
- (a) specifically to people with disabilities; or
 - (b) generally to people in the community, including people with disabilities.
- (3) The service provider may provide the services with the intention of making a profit.

Meaning of “service developer”

7. A “service developer” is a person who—
- (a) researches the provision of services for people with disabilities; or
 - (b) investigates the need for services for people with disabilities; or
 - (c) examines the outcomes of providing services to people with disabilities; or
 - (d) plans for the provision of services for people with disabilities; or
 - (e) develops proposals for the provision of services for people with disabilities; or
 - (f) initiates services for people with disabilities; or
 - (g) develops or implements training programs for—
 - (i) the families of, and other persons who provide care for or assistance to, people with disabilities; or
 - (ii) other service providers.

Meaning of “grantee”

- 8.(1) A “grantee” is a person who is granted financial assistance under

Part 5.

(2) A reference in Part 6 to a grantee includes, in the case of an unincorporated body, the member or members who agreed, under section 27(3), with the conditions on which the grant was made.

PART 3—PRINCIPLE THAT PEOPLE WITH DISABILITIES HAVE THE SAME HUMAN RIGHTS AS OTHERS

Principle that people with disabilities have the same human rights as others

9.(1) People with disabilities have the same basic human rights as other members of society and should be empowered to exercise their rights.

(2) People with disabilities have the right to—

- (a) respect for their human worth and dignity as individuals; and
- (b) realise their individual capacities for physical, social, emotional and intellectual development; and
- (c) services that support their attaining a reasonable quality of life in a way that supports their family unit and their full participation in society; and
- (d) participate actively in the decisions that affect their lives, including the development of disability policies, programs and services; and
- (e) any necessary support, and access to information, to enable them to participate in decisions that affect their lives; and
- (f) receive services in a way that results in the minimum restriction of their rights and opportunities; and
- (g) pursue any grievance in relation to services without fear of the services being discontinued or recrimination from service providers; and
- (h) adequate support to enable pursuit of grievances in relation to

services.

(3) This section applies regardless of the age of the person with the disability or the origin, nature, type or degree of the disability.

(4) Services, and the information necessary to support a right, should be provided in a way that is appropriate taking into account the disability and the person's cultural background.

(5) Subsection (2) does not limit subsection (1).

PART 4—OBJECTIVES FOR THE DEVELOPMENT AND IMPLEMENTATION OF PROGRAMS AND SERVICES FOR PEOPLE WITH DISABILITIES

Objectives in Part to be promoted by service developers and service providers

10. This Part sets out the objectives to be promoted by service developers and service providers in the development and implementation of programs and services for people with disabilities.

Focus on the development of the individual

11. Programs and services should be designed and implemented so that their focus is on developing the individual and on enhancing the individual's opportunity to establish a quality life.

Focus on a lifestyle the same as other people and appropriate for age

12. Programs and services should be designed and implemented to ensure that the conditions of everyday life of people with disabilities are—

- (a) the same as, or as close as possible to, the conditions of everyday life valued by the general community; and
- (b) appropriate to their chronological age.

Coordination of, and integration of, services with general services

13.(1) Services should be designed and implemented as part of local coordinated service systems and integrated with services generally available to members of the community, wherever possible.

(2) Public sector units should develop, plan and deliver disability programs and services in a coordinated way.

Services to be tailored to meet individual needs and goals

14. Services should be tailored to meet the individual needs and goals of people with disabilities.

People with disabilities experiencing additional disadvantages

15. Programs and services should be designed and implemented to meet the needs of people with disabilities who may experience additional disadvantages—

- (a) because they are Aborigines or Torres Strait Islanders; or
- (b) because of their sex, ethnic origin or location.

Promotion of competency, positive image and self-esteem

16. Programs and services should be designed and implemented to—

- (a) promote recognition of the competence of people with disabilities; and
- (b) promote a positive image of people with disabilities; and
- (c) enhance the self-esteem of people with disabilities.

Inclusion in community

17. Programs and services should be designed and implemented to promote the inclusion of people with disabilities in the life of the local community.

No single organisation to exercise control over life of person with disability

18. Programs and services should be designed and implemented to ensure that no single organisation that is a service provider exercises control over all or most aspects of the life of a person with a disability.

Certain service providers to make information available

19.(1) Organisations that are service providers should make available information that allows the quality of their services to be judged.

(2) The information should be available to the people using the services, their advocates, any person who provides financial assistance for the services and the community generally.

Access to advocacy support

20. Services should be designed and implemented to ensure that people with disabilities have access to any necessary independent advocacy support so that they can participate adequately in decision-making about the services they receive.

Raising and resolving grievances

21. Programs and services should be designed and implemented to ensure that appropriate ways exist for people with disabilities and their advocates to raise grievances about services and have them resolved.

Participation in planning etc. of services

22.(1) Services should be designed and implemented to provide people with disabilities with, and encourage them to make use of, ways to participate continually in the planning and operation of services that they receive.

(2) Programs and services provided to people with disabilities should provide opportunities for consultation in relation to the development of major policy and program changes.

Respect for privacy and confidentiality

23. Programs and services should be designed and implemented to respect the rights of people with disabilities to privacy and confidentiality.

Consideration etc. for others involved with people with disabilities

24. Programs and services should be designed and implemented to—

- (a) consider the implications for the families, carers and advocates of people with disabilities; and
- (b) recognise the demands on the families of people with disabilities; and
- (c) take into account the implications for, and demands on, the families of people with disabilities.

PART 5—GRANT OF FINANCIAL ASSISTANCE**Persons eligible to apply for funding**

25. The following persons are eligible to apply for a grant of financial assistance—

- (a) people with disabilities;
- (b) service providers;
- (c) service developers.

Ministerial approval of grants of financial assistance

26. The Minister may approve grants of financial assistance only if the Minister is satisfied that—

- (a) the principles set out in Part 3 will be promoted by the grant; and
- (b) the programs and services funded by the grant will promote the objectives set out in Part 4.

Agreement about conditions to which financial assistance is subject

27.(1) A person is not to be paid money under a grant unless the person has agreed, in writing, with the conditions on which the grant is made.

(2) The agreement may deal with a matter that is dealt with under Part 6.

(3) If the grantee is an unincorporated body, a member or members of the organisation (specified by the Minister) must agree, in writing, with the conditions on which the grant is made.

(4) If the grantee is a service provider, the agreement must set out—

- (a)** the objectives of the service provider; and
- (b)** the outcomes to be achieved by the people receiving the services; and
- (c)** the rights of the people receiving the services.

Minister's powers not limited by agreement etc.

28.(1) The Minister's powers under this Part are not limited by—

- (a)** the inclusion of a matter in an agreement under section 27; or
- (b)** a power of the chief executive of the department under Part 6.

(2) The Minister may review, amend or repeal any decision under Part 6 of the chief executive of the department.

**PART 6—POWERS OF CHIEF EXECUTIVE IF
SUSPICION THAT CONDITION NOT COMPLIED
WITH****Powers of chief executive if suspicion that a condition not complied with**

29. If the chief executive of the department suspects on reasonable grounds that a condition of a grant of financial assistance under Part 5—

- (a)** is not being complied with; or

(b) has not been complied with;
the chief executive may exercise 1 or more of the powers under this Part.

Chief executive may request grantee to provide explanation

30.(1) The chief executive may request the grantee to explain to the chief executive why—

- (a) further payments under the grant should be made; and
- (b) amounts paid under the grant should not be refunded.

(2) The request must be in writing and allow 21 days after the day of its receipt before the grantee must provide the explanation.

Chief executive may suspend further payments

31. If the grantee—

- (a) does not provide an explanation to the chief executive before 21 days after the receipt of the request; or
- (b) fails to satisfy the chief executive that the conditions of the grant are being complied with and have been complied with;

the chief executive may suspend further payments under the grant.

Chief executive may request production etc. of books and records and examine them etc.

32.(1) The chief executive may request the grantee to produce to the chief executive any books or records kept in relation to money received under the grant.

(2) The chief executive may examine and make copies of, or take extracts from, the books and records relating to the receipt and spending of the money.

Chief executive may request Auditor-General to audit books etc.

33.(1) The chief executive may request the Auditor-General to audit the accounts of the grantee.

(2) In carrying out the audit, the Auditor-General has all the powers conferred on the Auditor-General by the *Financial Administration and Audit Act 1977* in respect of an audit of that type and the provisions of that Act apply in respect of the audit and to all persons concerned with it.

PART 7—MISCELLANEOUS

Delegation by Minister of powers under Act

34. The Minister may delegate the Minister's powers under this Act to an officer of the department.

Delegation by chief executive

35. The chief executive of the department may delegate any of the following powers to an officer of the department—

- (a) the chief executive's powers under Part 6;
- (b) a power delegated to the chief executive under section 34.

ENDNOTES

1 Index to endnotes

		Page
2	Date to which amendments incorporated	14
3	Key	14
4	Table of earlier reprints	15
5	List of legislation	15
6	List of annotations	15

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 11 February 1997. Future amendments of the Disability Services Act 1992 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	1 September 1992

5 List of legislation

Disability Services Act 1992 No. 24

date of assent 1 June 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 13 June 1992 (1992 SL No. 130)

as amended by—

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

6 List of annotations

Purposes of Act

s 3 amd 1996 No. 37 s 147 sch 2

Meaning of “service provider”

s 6 amd 1996 No. 37 s 147 sch 2

Coordination of, and integration of, services with general services

s 13 amd 1996 No. 37 s 147 sch 2