

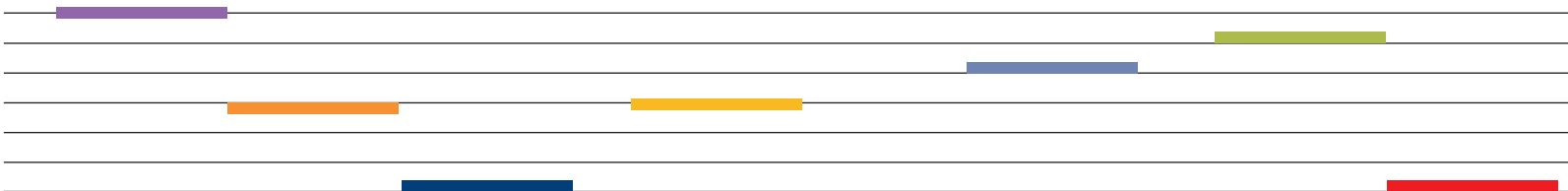


Carers Recognition Act 2005

and what it means



Government
of South Australia



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In October 2005, the Carers Recognition Bill was introduced to Parliament and successfully passed through the Upper and Lower Houses. The Bill became the *Carers Recognition Act 2005* on 3rd November 2005 when it was assented to by the Governor of South Australia. The Act commenced on 1 December 2005.

The main aims of the *Carers Recognition Act 2005* are to:

- recognise and support carers and their role in the community
- enshrine the Carers Charter in legislation (Schedule 1 of the Act)
- require that certain organisations report on the action taken to reflect the principles of the Carers Charter in the provision of services relevant to carers and the persons they care for.

Who is a carer?

A carer, for the purposes of the *Carers Recognition Act 2005*, is a person who provides ongoing care or assistance to someone who has a disability. The disability may relate to a physical, intellectual or mental illness, a chronic disease, a terminal condition or may relate to a person who is frail and therefore needs assistance to carry out daily tasks.

Who is not a carer? (for the purposes of the Act)

Volunteers and paid staff working for agencies are not included in this definition. Neither is a person a "carer" *only* because of their relationship to the person cared for, or because care is provided to a child placed in the care of a person under the Children's Protection Act 1993, or some other Act.

What is required under the Act?

The Act states that certain organisations must ensure that the organisation itself, and those who work for it, take action to reflect the principles of the Carers Charter in their provision of services to carers and the persons they care for. It also requires that certain organisations must, where there is relevance to carers or the persons they care for, consult carers or bodies that represent carers in:

- development of policies or programs
- strategic or operational planning.

Organisations must report on the actions taken in relation to these matters.

Who needs to report on the Act and how?

Public service administrative units (within the meaning of the Public Sector Management Act 1995) that provide relevant services, or any other person or body declared by regulation to be a reporting organisation, are reporting organisations.

The report is to be a part of the annual report of the organisation.

What will happen to the Reports?

The Minister for Families and Communities (DFC) is responsible for the Act.

The annual reporting from the applicable agencies will be provided to the Minister. Comment will be sought from the Carers Reference Group on the implementation and compliance reports of State Government agencies to the Act. The Carers Reference Group will also advise DFC on issues of relevance to carers.

The Minister will conduct a review of the Act's operation and effectiveness after five years.

South Australia

Carers Recognition Act 2005

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

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Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Carers Recognition Act 2005*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Objects

The objects of this Act are—

- (a) to recognise and support carers and their role in the community; and
- (b) to provide for the reporting by organisations of the action taken to reflect the principles of the Carers Charter in the provision of services relevant to carers and the persons they care for.

4—Interpretation

In this Act, unless the contrary intention appears—

applicable organisation means—

- (a) a reporting organisation; or
- (b) a person or body providing relevant services under a contract with a reporting organisation (other than a contract of employment); or
- (c) any other person or body declared by regulation to be an applicable organisation;

carer—see section 5;

Carers Charter means the South Australian Carers Charter set out in Schedule 1;

public sector agency means a public sector agency within the meaning of the *Public Sector Management Act 1995*;

relevant services means services relevant to carers and the persons they care for;

reporting organisation means—

- (a) a public service administrative unit within the meaning of the *Public Sector Management Act 1995* that provides relevant services; or
- (b) any other person or body declared by regulation to be a reporting organisation.

5—Meaning of carer

(1) Subject to this section, a person is a ***carer*** for the purposes of this Act if he or she is a natural person who provides ongoing care or assistance to—

- (a) a person who has a disability within the meaning of the *Disability Services Act 1993*; or
- (b) a person who has a chronic illness, including a mental illness within the meaning of the *Mental Health Act 1993*; or
- (c) a person who, because of frailty, requires assistance with the carrying out of everyday tasks; or
- (d) a person of a class prescribed by regulation.

(2) A person is not a carer if the person provides the care or assistance—

- (a) under a contract for services or a contract of service; or
- (b) in the course of doing community work organised by a community organisation within the meaning of the *Volunteers Protection Act 2001*.

(3) A person is not a carer for the purposes of this Act only because the person—

- (a) is a spouse, de facto partner, parent or guardian of the person to whom the care or assistance is being provided; or
- (b) provides care to a child who has been placed in the care of that person under the *Children's Protection Act 1993* or any other Act.

6—Obligations of applicable organisations relating to Carers Charter

- (1) An applicable organisation must take all practicable measures to ensure that the organisation and its officers, employees or agents have an awareness and understanding of the Carers Charter and take action to reflect the principles of the Charter in the provision of the relevant services of that organisation.
- (2) Without limiting subsection (1), an applicable organisation that is a public sector agency must consult carers, or persons or bodies that represent carers, in—
 - (a) policy or program development; or
 - (b) strategic or operational planning,relevant to carers and the persons they care for.

7—Reporting by reporting organisation

- (1) A reporting organisation must prepare a report on—
 - (a) the organisation's compliance or non-compliance with section 6; and
 - (b) if a person or body provides relevant services under a contract with the organisation (other than a contract of employment), that person's or body's compliance or non-compliance with section 6.
- (2) The report required by this section must—
 - (a) include information prescribed by regulation; and
 - (b) be incorporated with the annual report of the reporting organisation and relate to the period to which the annual report relates.

8—Regulations

The Governor may make regulations as contemplated by this Act, or as necessary or expedient for the purposes of this Act.

9—Review of Act

- (1) The Minister must, as soon as practicable after the fifth anniversary of the commencement of this Act, carry out a review of the operation and effectiveness of this Act.
- (2) The Minister is to prepare a report based on the review and, as soon as practicable after the report is prepared (and in any event not more than 12 months after the expiration of the 5 year period referred to in subsection (1)), have copies of the report laid before both Houses of Parliament.

Schedule 1—South Australian Carers Charter

1—Carers have choices within their caring role

- (1) Carers should have the same rights, choices and opportunities as other South Australians.
- (2) Carers should be supported by individuals, families, business and community organisations, public institutions and all levels of government in the choices they make in their caring role.

2—Carers health and well-being is critical to the community

- (1) Carers are entitled to enjoy optimum health, social, spiritual and economic well-being and to participate in family, social and community life, employment and education.
- (2) Carers should be supported to balance their caring role with their own needs.

3—Carers play a critical role in maintaining the fabric of society

- (1) Carers should be recognised and valued for their important contribution to the well-being of the Australian community.
- (2) Carers should be recognised for their unique experience and knowledge in the caring role.

4—Service providers work in partnership with carers

- (1) Caring is a social and public responsibility shared by individuals, families, business and community organisations, public institutions and all levels of government.
- (2) Carers should be recognised as individuals with their own needs, within and beyond the caring situations.
- (3) The relationship between a carer and the person they care for needs to be respected and honoured.
- (4) The role of carers must be recognised by including carers in the assessment, planning, delivery and review of services that impact on them and the role of carers.
- (5) The views and needs of carers must be taken into account along with the views, needs and best interests of people receiving care when decisions are made that impact on carers and the role of carers.

5—Carers in Aboriginal and Torres Strait Islander communities need specific consideration

- (1) Aboriginal and Torres Strait Islander carers should be specifically identified and supported within and outside their communities.
- (2) Aboriginal and Torres Strait Islander carers should be supported by business and community organisations, public institutions and all levels of government.
- (3) Aboriginal and Torres Strait Islander carers should be provided with culturally appropriate support services that take into account the history, health and well-being of their extended families.

6—All children and young people have the right to enjoy life and reach their potential

- (1) Children and young people who are carers should be specifically identified and supported by individuals, business and community organisations, public institutions and all levels of government.
- (2) The special needs of children and young people who are carers and the unique barriers to their access to service provision should be recognised and acted on so that, as far as possible, they have the same opportunities as other children and young people in Australia.
- (3) The caring responsibilities of children and young people who are carers should be minimised.

7—Resources are available to provide timely, appropriate and adequate assistance to carers

- (1) Carers need access to a wide range of responsive, affordable services to ensure informed decision making and support for them in their caring situation.
- (2) Carers from culturally and linguistically diverse backgrounds may have complex needs that require appropriate service delivery.
- (3) Carers in rural and remote communities have barriers to service provision.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Principal Act

Year	No	Title	Assent	Commencement
2005	55	<i>Carers Recognition Act 2005</i>	3.11.2005	1.12.2005 (<i>Gazette 1.12.2005p4072</i>)

