

# Carers Recognition Act 2012

No. 10 of 2012

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**Victoria**

# **Carers Recognition Act 2012<sup>†</sup>**

**No. 10 of 2012**

[Assented to 20 March 2012]

**The Parliament of Victoria enacts:**

## **PART 1—PRELIMINARY**

### **1 Purposes**

The main purposes of this Act are to—

- (a) recognise, promote and value the role of people in care relationships; and
- (b) recognise the different needs of persons in care relationships; and
- (c) support and recognise that care relationships bring benefits to the persons in the care relationship and to the community; and

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- (d) enact care relationship principles to promote understanding of the significance of care relationships.

## 2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 1 July 2012, it comes into operation on that day.

## 3 Definitions

In this Act—

*care* means the provision of ongoing support, assistance or personal care to another person;

*care relationship* has the meaning referred to in section 4;

*care relationship principles* mean the principles set out in Part 2;

*care support organisation* means a person or body that is bound by the application of this Act under section 5;

*carer* means a person, including a person under the age of 18 years, who provides care to another person with whom he or she is in a care relationship;

*disability* has the same meaning as in the **Disability Act 2006**;

*funded care agency* means a person or body that is funded by a public service care agency and has responsibility for programs or services that directly impact on carers and the persons for whom they care;

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*personal care* has the same meaning as *special or personal care* has in the **Health Services Act 1988**;

*public service care agency* means—

- (a) a public service body within the meaning of the **Public Administration Act 2004**; or
- (b) a council within the meaning of the **Local Government Act 1989**; or
- (c) an entity established by or under an Act for a public purpose—

that is responsible for the development, implementation, provision or evaluation of policies, programs or services that affect carers and the persons for whom they care.

#### **4 Meaning of care relationship**

- (1) For the purposes of this Act, a person is in a care relationship if he or she provides another person, or receives from another person, care because one of the persons in the relationship—
  - (a) has a disability; or
  - (b) is older; or
  - (c) has a mental illness; or
  - (d) has an ongoing medical condition (including a terminal or chronic illness or dementia).
- (2) Despite subsection (1), the following relationships are also care relationships for the purposes of this Act—
  - (a) a relationship where an individual has custody and guardianship of a child under a permanent care order made under Part 4.10 of the **Children, Youth and Families Act 2005**; and

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- (b) a relationship where a child is placed with an individual who provides care to that child under a child care agreement made under Part 3.5 of the **Children, Youth and Families Act 2005**; and
- (c) a relationship where a child is placed with an individual who provides care to that child under a protection order made under Part 4.9 of the **Children, Youth and Families Act 2005**.
- (3) For the purposes of this Act, a person is not in a care relationship with another person merely because he or she—
- (a) is the spouse, or the domestic partner within the meaning of the **Children, Youth and Families Act 2005**, of the other person; or
  - (b) is the parent, child or other relative of the other person; or
  - (c) lives with the other person.
- (4) Despite anything to the contrary in this section, a person is not in a care relationship for the purposes of this Act if he or she provides care to another person—
- (a) under a contract of service or a contract for the provision of services; or
  - (b) under an employment contract; or
  - (c) in the course of doing voluntary work for a community organisation; or
  - (d) as part of the requirements of an education course or training.
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- (5) A person described in subsection (1) or (2) may be in a care relationship even if the person receives funding from either the Commonwealth or State Government in relation to carrying out the role of a carer.

## 5 Application

- (1) This Act applies to—
- (a) public service care agencies; and
  - (b) funded care agencies; and
  - (c) any person or body that has entered into a contract or funding arrangement with a funded care agency to undertake all or part of the funded care agency's responsibilities in relation to the provision of programs or services that directly impact on carers and the persons for whom they care, but only in relation to those activities; and
  - (d) any person, or class of person, or body that is prescribed by the regulations.
- (2) Despite subsection (1), this Act does not apply to—
- (a) family day care services within the meaning of the **Education and Care Services National Law Act 2010**;
  - (b) children's services within the meaning of the **Children's Services Act 1996**;
  - (c) children's services within the meaning of the **Education and Care Services National Law Act 2010**;
  - (d) education and care services within the meaning of the **Education and Care Services National Law Act 2010**;
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- (e) preschool programs within the meaning of the **Education and Care Services National Law Act 2010**;
  - (f) Government and non-Government schools within the meaning of the **Education and Training Reform Act 2006**.

**6 Application of Act to other laws**

If there is any inconsistency between this Act (other than section 12) and any other Act, the provisions of the other Act prevail.

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**PART 2—CARE RELATIONSHIP PRINCIPLES**

**7 Principles relating to carers**

A carer should—

- (a) be respected and recognised—
  - (i) as an individual with his or her own needs; and
  - (ii) as a carer; and
  - (iii) as someone with special knowledge of the person in his or her care; and
- (b) be supported as an individual and as a carer, including during changes to the care relationship; and
- (c) be recognised for his or her efforts and dedication as a carer and for the social and economic contribution to the whole community arising from his or her role as a carer; and
- (d) if appropriate, have his or her views and cultural identity taken into account, together with the views, cultural identity, needs and best interests of the person for whom he or she is a carer, in matters relating to the care relationship, including when decisions are made that impact on the carer and the care relationship; and
- (e) have his or her social wellbeing and health recognised in matters relating to the care relationship; and
- (f) have the effect of his or her role as a carer on his or her participation in employment and education recognised and considered in decision making.



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## **8 Principles relating to persons being cared for**

A person being cared for in a care relationship should—

- (a) be respected, recognised and supported as an individual and as a person in a care relationship, including during changes to the care relationship; and
- (b) have his or her views taken into account, together with his or her needs, cultural identity and best interests, in how he or she is cared for; and
- (c) have his or her changing needs considered and taken into account in how he or she is cared for.

## **9 Principles relating to care relationships**

A person in a care relationship should—

- (a) have his or her care relationship respected and honoured; and
- (b) if appropriate, have his or her views considered in the assessment, planning, delivery, management and review of services affecting him or her and the care relationship.

## **10 Legal rights not affected**

The care relationship principles set out in this Part do not create, or confer on any person, any right or entitlement enforceable at law.

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**PART 3—OBLIGATIONS REGARDING CARERS AND CARE  
RELATIONSHIPS**

**11 Obligations of care support organisations**

- (1) A care support organisation must—
- (a) take all practicable measures to ensure that its employees and agents have an awareness and understanding of the care relationship principles; and
  - (b) take all practicable measures to ensure that persons who are in care relationships and who are receiving services in relation to the care relationship from the care support organisation have an awareness and understanding of the care relationship principles; and
  - (c) take all practicable measures to ensure that the care support organisation and its employees and agents reflect the care relationship principles in developing, providing or evaluating support and assistance for persons in care relationships.
- (2) Nothing in this section creates any obligation on a care support organisation to provide funding or services to persons in care relationships.

**12 Reporting obligations**

- (1) Despite anything to the contrary in any other Act, a care support organisation must prepare a report on its compliance with its obligations under section 11.
- (2) A report required under this section must—
- (a) be included in the care support organisation's annual report; and
  - (b) relate to the period to which the annual report relates; and

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Part 3—Obligations Regarding Carers and Care Relationships

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(c) include any additional information required  
by the regulations.

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**PART 4—GENERAL**

**13 Regulations**

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
  - (2) Without limiting subsection (1), the Governor in Council may make regulations for or with respect to—
    - (a) prescribing persons or bodies to whom this Act is to apply; and
    - (b) prescribing information to be included in reports of care support agencies.
  - (3) Regulations made under this Act may—
    - (a) be of general or limited application;
    - (b) differ according to differences in time, place or circumstance;
    - (c) confer a discretionary authority or impose a duty on a specified person or body or a specified class of person or body.
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**PART 5—AMENDMENTS TO THE DISABILITY ACT 2006**

**14 Amendments to the Disability Act 2006**

See:  
Act No.  
23/2006  
and  
amending  
Act Nos  
80/2006,  
25/2007,  
69/2009,  
74/2009,  
91/2009,  
13/2010,  
29/2010,  
29/2011 and  
83/2011.  
LawToday:  
www.  
legislation.  
vic.gov.au

- (1) In section 3(1) of the **Disability Act 2006** insert the following definition—

**"carer** has the same meaning as in the **Carers Recognition Act 2012**;"
- (2) In section 5 of the **Disability Act 2006**—
  - (a) in subsection (3)(h), after "families" insert ", carers"; and
  - (b) in subsection (3)(i), after "families" insert "and carers"; and
  - (c) after subsection (3)(j) insert—

"(ja) acknowledge the important role carers have in assisting the people they care for to realise their individual physical, social, emotional and intellectual capacities;" and
  - (d) in subsection (3)(k), after "families" insert "and carers"; and
  - (e) in subsection (3)(l), after "other persons" insert "(including carers)".
- (3) In section 7(4)(a) of the **Disability Act 2006**, after "family member," insert "carer,".
- (4) In section 52(2) of the **Disability Act 2006**—
  - (a) in paragraph (c), after "family" insert ", carers"; and
  - (b) in paragraph (d), for "within families" substitute "of families and carers".

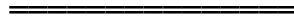
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**15 Repeal of Part 5 of this Act**

This Part is **repealed** on 1 July 2013.

**Note**

The repeal of this Part does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).



**ENDNOTES**

<sup>†</sup> *Minister's second reading speech—*

*Legislative Assembly: 8 February 2012*

*Legislative Council: 1 March 2012*

The long title for the Bill for this Act was "A Bill for an Act to provide for the recognition of people in care relationships and for other purposes."