



Australian Government
Department of Social Services

Consultation Paper (Summary): A New Act to Replace the *Disability Services Act 1986*



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Acknowledgement of Country

The Department of Social Services would like to acknowledge the Traditional Owners and Custodians of the Lands and pay its respects to Elders past, present and emerging. The department would also like to extend that acknowledgement and respect to any Aboriginal and Torres Strait Islander people reading this paper.

Introduction

The *Disability Services Act 1986* (the Act) explains what kind of services and supports the government can provide for people with disability. The Department of Social Services (the department) is going to make new legislation to replace the Act.

We need your help to make sure that the new legislation covers the services and supports that you need. It will say who the support is for, and how it should work. We need your help to make sure that we use the right words.

This paper will tell you what kind of changes we think the Act needs. It will also ask questions to check if you agree with the changes. You can tell us what should be different, and why it is important.

The Australian Government has promised to support people with disability. In 2008, Australia signed the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD). This means that Australia has agreed to make sure that people with disability are equal and active members of society.

The Australian Government has listened to people with disability to write Australia's Disability Strategy 2021-31 (the Strategy). The Strategy is Australia's plan for improving the lives of people with disability over the next ten years.

The Act has not significantly changed in over thirty years. We need your help to make sure that the new Act addresses the Strategy, and meets Australia's commitments to the UN CRPD.

The new Act should cover disability services and supports as they exist today. It should also be flexible enough to support future reforms and recommendations, and remain relevant and effective.

Together, we can make sure that the new Act helps to genuinely improve outcomes for people with disability.

Have your say at
<https://engage.dss.gov.au>

Consultation: How to get involved

Comments on the proposed changes are welcome from anyone. First and foremost, this includes people with disability, but also includes family members, carers, advocates, service providers, peak bodies and organisations. You can share your own views, or provide feedback on behalf of someone else.

Questions are included after each section for you to think about. If you would like to respond, you can choose to respond to all of the questions, or just some of them.

Other comments and suggestions

You can also give us your feedback or thoughts without responding to any particular question.

In addition to the questions raised in this paper, the department is keen to receive any other comments, suggestions or concerns that you might have about the new Act. This could be about things that the new Act should do or cover, or about the choice of words for the new Act, or any other thoughts that you have about it.

Your response can be in any format – online, in writing, or via video or audio response. It can be as long or short as you like. You can choose whether your response will be confidential or public.

The department will take all responses seriously, and they will help the department to understand your experiences, perspectives, and needs. This will help the department work out what needs to change in the Act and the form these changes should take.

If you have any questions about the consultation process, please refer to the [DSS Engage](#) website or contact sector.engagement@dss.gov.au

Have your say - please participate at:

<https://engage.dss.gov.au>

Proposed updates to the Act

Objects of the Act

Objects are listed at the beginning of a piece of legislation. They set out the general aims or principles of the legislation. If there is any doubt about the purpose of a clause or provision in legislation, the objects can help to explain what the legislation is trying to do.

As a starting point, the department suggests the following objects for the new Act:

- a) in conjunction with other laws, give effect to Australia's obligations under the UN CRPD.
- b) support the independence and social and economic participation of people with disability.
- c) provide supports and services which empower people with disability to maintain and increase their social and economic participation.
- d) ensure that supports and services are developed with people with disability, and that they are effective and high quality.
- e) increase public awareness, understanding and acceptance of people with disability.

QUESTION 1: Do you agree with the proposed objects for the new Act? What other objects should be included in the new Act?

Who will the new Act support?

For the new Act, it is important to provide a clear and respectful way to identify who should receive supports and services. With this in mind, the new Act could define the target group for supports and services as people with disability who are experiencing one or more of the following barriers to full and effective participation in society:

- a) attitudinal barriers
- b) environmental barriers
- c) institutional barriers
- d) communication barriers.

The new Act will need to explain what should happen when someone is separately eligible for services or supports from the NDIS or from state or territory sources. The department suggests the following principles apply:

- a) services and supports provided under the Act should not duplicate or substitute services and supports provided under other legislation. In particular, all governments must continue to consider and uphold the rights of people with disability, consistent with the Strategy.
- b) where a person is eligible for supports or services under more than one piece of legislation, the agencies and providers involved should work together with the person to coordinate the supports and services, avoid duplication, and ensure alignment with the person's goals.

QUESTION 2: Do you agree with the proposed approach to the target group? How do you think the target group should be defined?

QUESTION 3: Do you agree with our suggested principles for avoiding duplication and requiring coordination? What other principles do you think should apply?

Definition of disability

The department is aware that preferred language and definitions shift over time. With this in mind, whether or not the new Act provides a definition for disability, the main concern is ensuring that the Act sets out who should receive support in a clear and meaningful way.

QUESTION 4: Do you think the new Act should include a definition for disability? Do you have any additional comments?

Quality and safeguarding arrangements

The existing Act provides authority for the National Standards for Disability Services (NSDS). These standards are in many respects similar to the Aged Care Quality Standards and the NDIS Practice Standards, but operate in parallel, leading to regulatory burden.

QUESTION 5: How do you think quality and safeguarding arrangements should be managed by the new Act?

Types of services funded under the new Act

The Government can only agree to spend money when legislation authorises it to do so. The existing Act covered disability services when it was first introduced, but today, not all disability programs are covered by the Act. This means that authority is not clearly established by the Act, and has to be sought from other legislation.

The types of supports and services that could be included under the new Act are:

- accessibility
- accommodation support
- advocacy
- employment and training
- independent living
- information and education
- recreation
- respite care
- research, development and data collection.

QUESTION 6: Do you agree with the supports and services listed above? What other kinds of supports and services should be included in the new Act?

Disability Employment and Rehabilitation Services

The Disability Employment Services (DES) program helps people with disability, injury or health condition(s) to prepare for, find, and maintain employment.

The current structure of these programs is based on historical arrangements and creates complications in both the funding and management of these programs. For example, employment services must be delivered as a grant, while the same limitation does not apply to rehabilitation employment programs.

QUESTION 7: Do you consider it necessary to retain separate provisions for employment services and rehabilitation employment program, or could they be combined?

Consultation questions summary

Please respond to as many or as few questions as you like. You are also welcome to provide any other comments, suggestions or concerns about the Act.

QUESTION 1: Do you agree with the proposed objects for the new Act? What other objects should be included in the new Act?

QUESTION 2: Do you agree with the proposed approach to the target group? How do you think the target group should be defined?

QUESTION 3: Do you agree with our suggested principles for avoiding duplication and requiring coordination? What other principles do you think should apply?

QUESTION 4: Do you think the new Act should include a definition for disability? Do you have any additional comments?

QUESTION 5: How do you think that quality and safeguarding arrangements should be managed by the new Act?

QUESTION 6: Do you agree with the supports and services listed above? What other kinds of supports and services should be included in the new Act?

QUESTION 7: Do you consider it necessary to retain separate provisions for employment services and rehabilitation employment program, or could they be combined?

COMMENTS: If you have any other comments, suggestions, concerns, or thoughts about our plans for the new Act, please let us know.

Have your say - please participate at:

<https://engage.dss.gov.au>