

South Australia

# **Disability Inclusion (Review Recommendations) Amendment Act 2024**

An Act to amend the *Disability Inclusion Act 2018*.

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**The Parliament of South Australia enacts as follows:**

### **Part 1—Preliminary**

#### **1—Short title**

This Act may be cited as the *Disability Inclusion (Review Recommendations) Amendment Act 2024*.

#### **2—Commencement**

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

## Part 2—Amendment of *Disability Inclusion Act 2018*

### 3—Amendment of section 3—Interpretation

Section 3(1)—before the definition of *central assessment unit* insert:

*barrier* includes something that is—

- (a) physical, architectural, technological or attitudinal; or
- (b) based on information or communications; or
- (c) the result of a policy or practice;

### 4—Insertion of sections 7A and 7B

After section 7 insert:

#### 7A—Minister to seek views of people with disability

- (1) Without limiting any other provision of this Act, the Minister must, in accordance with any requirements set out in the regulations, seek the views of people with disability regarding—
  - (a) the operation, administration and enforcement of this Act; and
  - (b) furthering the objects of this Act (including by increasing the inclusion of South Australians with disability in all areas of life in this State).
- (2) Without limiting subsection (1), the Minister must establish a committee to advise and assist the Minister in relation to the operation of this section.
- (3) The membership of a committee established by the Minister under this section will be determined by the Minister but should, as far as is reasonably practical, include a diverse range of people with lived experience of disability.
- (4) The procedures of a committee established by the Minister under this section will be—
  - (a) as determined by the Minister; or
  - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

#### 7B—Minister to establish committee

- (1) Without limiting section 7A(2), the Minister must establish a committee to—
  - (a) advise the Minister, taking into account the principles of co-design, in relation to the preparation and review of the State Disability Inclusion Plan; and
  - (b) perform such other functions as may be assigned to the committee under this or any other Act or by the Minister.

- (2) The membership of the committee will be determined by the Minister but should, as far as is reasonably practical, include a diverse range of people with lived experience of disability.
- (3) The procedures of the committee will be—
  - (a) as determined by the Minister; or
  - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

### **5—Amendment of section 8—Objects**

- (1) Section 8—after "people with disability" wherever occurring insert:  
    , regardless of age,
- (2) Section 8—after paragraph (e) insert:  
    ; and
  - (f) making significant gains towards achieving an inclusive community where the principles outlined in the *United Nations Convention on the Rights of Persons with Disabilities* underpin the development and delivery of services, especially by removing barriers so that people with disability, regardless of age, are able to access services and to participate in the community in the same way as other members of the community.

### **6—Amendment of section 9—Principles**

- (1) Section 9(1)—after paragraph (j) insert:
  - (ja) people with disability have the right to be safe, and to feel safe, through the provision of appropriate safeguards, information, services and support, and through appropriate and accessible reporting mechanisms in cases of neglect, abuse or exploitation;
- (2) Section 9(1)—after paragraph (o) insert:
  - (p) people living with disability from a range of lived experiences, and their families and representatives, have a right to participate in the design and delivery of inclusive policies and programs including, as appropriate, through co-design, consultation or other processes;
  - (q) insofar as people with disability may not be able to find out about their rights, or may not be able to understand their rights, because of their disability, State and local government should take reasonable steps to assist them to learn about their rights and to develop ways in which they can, or their families or representatives can, report violations of those rights;
  - (r) people with disability, and their families and representatives as appropriate, have a right to access and benefit from independent individual and systemic advocacy that assists in accessing services and addressing problems with services.

(3) Section 9—after subsection (5) insert:

- (5a) In addition to the principles set out in any other provision of this section, the following principles are to be acknowledged and addressed in the operation, administration and enforcement of this Act as it relates to people with significant intellectual disability or who have high levels of vulnerability due to disability:
- (a) people with significant intellectual disability or who have high levels of vulnerability due to disability have a right to feel safe, to enjoy dignity in their lives, and to participate in the community in meaningful way;
  - (b) people with significant intellectual disability or who have high levels of vulnerability due to disability may face major barriers which they may not be able to understand and so need support from others to advocate on their behalf when seeking to remove, or deal with, those barriers.
- (5b) In addition to the principles set out in any other provision of this section, the following risks and principles are to be acknowledged and addressed in the operation, administration and enforcement of this Act as it relates to people with disability who identify as LGBTQIA+:
- (a) cultural and other differences create barriers to providing supports and services to people with disability who identify as LGBTQIA+;
  - (b) the provision of mainstream supports and services to people with disability who identify as LGBTQIA+ should recognise and seek to address those barriers and should be informed by working in partnership with people with disability who identify as LGBTQIA+ and in consultation with their communities, to enhance their lives.
- (5c) In addition to the principles set out in any other provision of this section, the following risks and principles are to be acknowledged and addressed in the operation, administration and enforcement of this Act as it relates to people with disability who live in regional communities:
- (a) distance from metropolitan regions reduces the availability of supports and services to people with disability who live in regional communities;
  - (b) the provision of mainstream supports and services to people with disability who live in regional communities should recognise and seek to address this availability shortage, and should be informed by working in partnership with people with disability who live in regional communities and in consultation with their communities, to enhance their lives.

## 7—Amendment of section 10—Functions of Chief Executive

Section 10(1)—after paragraph (g) insert:

- (ga) advising the Minister on systemic or emerging accessibility and inclusion issues; and

## 8—Amendment of section 13—State Disability Inclusion Plan

(1) Section 13(3)(a)—after "of people with disability" insert:

including by adopting targets for the employment of people living with disability in the South Australian public service

(2) Section 13(3)—after paragraph (b) insert:

(ba) must contain provisions—

- (i) setting out whole of Government policies and strategies for giving effect to the principles and purposes of the *United Nations Convention on the Rights of Persons with Disabilities*, as well as any other relevant international human rights instruments affecting people with disability, as in force from time to time; and
- (ii) setting out strategies to ensure that the needs of persons referred to in section 9(2), (3), (4), (5), (5a), (5b) and (5c) are properly addressed by the State Disability Inclusion Plan; and
- (iii) specifying priority areas for improvement in relation to inclusion; and
- (iv) specifying measurable outcomes for each priority area identified in the State Disability Inclusion Plan; and

(3) Section 13(4)—after paragraph (b) insert:

(ba) must ensure that any documents prepared for the purposes of paragraph (a) are in a form that is accessible to people with disability; and

## 9—Amendment of section 14—Annual report on operation of State Disability Inclusion Plan

(1) Section 14(1)—delete "31 December" and substitute:

30 June

(2) Section 14(1)—delete "financial" and substitute:

calendar

(3) Section 14—after subsection (2) insert:

(3) A report under subsection (1) must include details of any systemic issues raised with the Minister and—

- (a) if action has been taken or is proposed to be taken in relation to an issue raised with the Minister—details of that action or proposed action; and

- (b) if no action is to be taken in relation to an issue raised with the Minister—the reasons for not taking action.

### **10—Amendment of section 15—Review of State Disability Inclusion Plan**

Section 15—after subsection (2) insert:

- (3) A report submitted to the Minister for the purposes of subsection (1) must include, or be accompanied by, information about any changes recommended to be made to the State Disability Inclusion Plan as a result of the review.

### **11—Amendment of section 16—Disability access and inclusion plans**

- (1) Section 16(3)(d)—after "strategies" insert:

, accompanied by measurable outcomes where appropriate,

- (2) Section 16(3)—after paragraph (d) insert:

- (da) must include strategies to ensure that the needs of persons referred to in section 9(2), (3), (4), (5), (5a), (5b) and (5c) are properly addressed by the disability access and inclusion plan; and

- (3) Section 16(4)—after paragraph (c) insert:

- (ca) must ensure that any documents prepared for the purposes of paragraph (b) are in a form that is accessible to people with disability; and

### **12—Amendment of section 17—Annual report on operation of disability access and inclusion plan**

- (1) Section 17(1)—delete "31 October" and substitute:

30 April

- (2) Section 17(1)—delete "financial" and substitute:

calendar

- (3) Section 17(2)—delete "31 December" and substitute:

30 June

- (4) Section 17(2)—delete "financial" and substitute:

calendar

- (5) Section 17—after subsection (1) insert:

- (1a) A report under subsection (1) must include details of how the State authority is addressing the risks and principles relating to the persons referred to in section 9(2), (3), (4), (5), (5a), (5b) and (5c), by reference to the provisions in the State Disability Inclusion Plan and the State authority's disability access and inclusion plan relating to those persons.

**13—Amendment of section 18—Review of disability access and inclusion plans**

Section 18—after subsection (2) insert:

- (3) If the State Disability Inclusion Plan is varied, a State authority must, within 6 months of the publication of the plan as varied in the Gazette—
  - (a) review the State authority's disability access and inclusion plan to ensure it is consistent with the State Disability Inclusion Plan; and
  - (b) if the State authority's disability access and inclusion plan is not consistent with the State Disability Inclusion Plan—
    - (i) vary the State authority's disability access and inclusion plan to such extent as is necessary to ensure consistency with the State Disability Inclusion Plan; and
    - (ii) publish the varied disability access and inclusion plan as required by section 16(7).