

## Seniors Recognition (Grandparents Providing Care) Bill 2010

### Clause and Explanatory Notes

#### Introduction

The situation in which grandparents are primary carers for their grandchildren is increasing, and now accounts for more than 1 per cent of families across Australia, and more than 30 000 children<sup>1</sup>. While community-based support groups are available across the State, the status of grandparents providing care is not defined.

As family members who step in to become the immediate family of children, and who provide for, care for and love their grandchildren, and raise them through formative years, grandparents providing care deserve the recognition of the Parliament and the community for the work they do.

Recognition also requires a promise to consider the affects of decisions on grandparents providing care and their grandchildren.

The Bill introduces a Charter to provide recognition for grandparent carers, and the framework to support consideration of the Charter in the making of relevant decisions.

#### Short Title of the Bill

The short title of the Bill is the *Seniors Recognition (Grandparents Providing Care) Bill 2010*.

#### Objectives of the Bill

The objective of the Bill is to provide for the recognition of grandparents providing full-time care to their grandchildren and to ensure their interests are considered when making decisions that impact on their ability to care for their grandchildren.

#### Reasons for the Bill

- To implement a legislative framework that recognises the contribution of grandparents who provide care for their grandchildren
- To provide a mechanism to allow this recognition to be used as part of a decision-making process, ensuring that when decisions are made by authorities on issues that directly affect grandparents providing care or their grandchildren, there is a framework to assist this decision-making.
- To establish the Grandparent Carer's Charter, which sets out the contributions of grandparents providing care, the importance of consideration of grandparents in decision-making, and the unique place they hold in our community.

#### Achieving the Objectives

The Objectives of the Bill will be achieved through the implementation of the Charter, and provision of a framework allowing consideration of the Charter items in relevant decision-making.

#### Fundamental Legislative Principles

The Bill is designed to provide consideration of grandparents providing care and their grandchildren in decisions by authorities which affect them. This gives consideration of their rights and wellbeing an official status, and is in keeping with fundamental legislative principles.

#### Cost to Government

It is not envisaged there will be a significant cost associated with the implementation of this Bill.

---

<sup>1</sup> Mission Australia, Grandparents raising their Grandchildren Snapshot 2007,

**Consultation**

Various representatives of groups of grandparents providing care, seniors' organisations, and individuals, have been consulted in relation to this legislation.

**Clause 1** - The short title of the Bill as it may be referred to as the *Seniors Recognition (Grandparents Providing Care) Bill 2010*.

**Clause 2** - This clause advises that the Act commences on a day to be fixed by proclamation.

**Clause 3** - This clause refers to a dictionary to define the particular words used in this Bill.

**Clause 4** – This clause outlines the scope of the Bill, as it binds all persons to the Bill, but does not make the State, Commonwealth or other State liable for an offence.

**Clause 5** - This clause provides the objectives of the Bill: to recognise the valuable contribution of a grandparent providing full-time care of their grandchildren because one or more parent has an impaired capacity, would likely cause an unreasonable risk to the child's health or welfare without support, or who is otherwise not willing or able to provide full-time care.

The other objective of the Bill is to provide a mechanism for the interests of grandparents providing full-time care to be considered in decisions about the provision of services that impact on their grandchildren or their ability to continue to provide full-time care to their grandchildren.

**Clause 6** – In this clause, a construction promoting the Charter in this Bill is preferred to a construction that does not promote the grandparent carer's charter.

**Clause 7** – This clause establishes the grandparent carer's charter as schedule 1 of the Bill.

**Clause 8** – This clause defines 'relevant decision' as a decision that would either affect children receiving full-time care from a grandparent, or the ability of a grandparent to continue to provide full-time care.

**Clause 9** – This clause establishes the framework for using the Charter in decision-making. In making a 'relevant decision' the decision-maker must ensure the decision is consistent with the principles of the Charter. An employee of a decision-maker in a multi-staged decision-making process must also ensure consistency with the Charter.

This clause also requires the office of a decision-maker to ensure the office has a program to allow for the training and awareness of the Charter to its employees.

**Clause 10** – Under this clause, the decision –maker must, before making a relevant decision, issue a notice to seniors carers bodies outlining details of the decision and inviting submissions within at least 20 business days from the issuance of the notice. These submissions must then be considered by the decision maker.

Seniors carers bodies means community groups proscribed under a regulation.

**Clause 11** – This clause states the obligation of the Carers Advisory Council to work to advance the interests of grandparents providing care, promote compliance with the Charter, and make recommendations to the Minister on enhancing compliance.

**Clause 12** – This clause states The Governor in Council may make regulations under this Act.

**Schedule 1** - The schedule contains the grandparent carer's charter.

**The Parliament recognises that grandparents who provide accommodation and care for their grandchildren make a significant contribution to the lives of their grandchildren and deserve respect and support for their roles as full-time carers; this Act establishes the following grandparent carer's charter—**

1. The State recognises the effort and dedication of grandparents in our community and the vital community service they perform.
2. The State recognises that grandparents who provide full-time care to their grandchildren are primary care givers and deserve the same rights as other primary care givers.
3. The relationship between grandparent and grandchild should be honoured and respected.
4. The State recognises that grandparents providing full-time care to their grandchildren should be respected by our community and supported by all levels of government, institutions and organisations.
5. The views and needs of grandparents, providing full-time care to their grandchildren, must be taken into account, together with the views, needs and best interests of their grandchildren, when making decisions that may affect either the grandchild or the ability of the grandparent to provide full-time care.
6. Grandparents should be recognised for the unique knowledge, love and experience they contribute to their grandchildren's growth through formative years.

**Schedule 2** - This schedule contains the dictionary.

- *Council* means the Carers Advisory Council established under the *Carers (Recognition) Act 2008*.
- *Decision-maker* means a person who is authorised, under an Act, statutory instrument or quasi-legislation, to make a decision that may affect a person or group of persons.
- *Full-time care*, of a child by a grandparent, means at least 30 hours a week of care and supervision provided to the child in the grandparent's home or another place.
- *Grandparent*, of a child, includes the spouse of a grandparent of the child.
- *Impaired capacity* is as defined under the *Guardianship and Administration Act 2000*.
- *Employees* includes— part-time, full-time or casual; contractual and non-contractual; paid or unpaid; agents or their employees; and volunteers;
- *Quasi-legislation* includes—
  - documents publicly notified that describe how an Act or statutory instrument will be interpreted by the administering or review body; and
  - arrangements or agreements made by administering or review bodies that directly or indirectly affect the operation of an Act or statutory instrument.