

1. Commonwealth

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 23</p> <p>1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.</p> <p>2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.</p> <p>3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation</p>	<p>A New Tax System (Family Assistance) Act 1999</p>	Cth	Section 54	A limit of 50 hours applies in respect of child care benefit for care provided by an approved child care service in circumstances involving disabilities. For example, if the claimant is a disabled person or receives carers allowance for a disabled child.
	<p>Disability Discrimination Act 1992 (Note: Similar provisions can be found in Part 4A of the Anti-Discrimination Act 1977 (NSW); Part 4 of the Equal Opportunity Act 2010 (VIC); Part 4 of the Anti-Discrimination Act 1991 (QLD)).</p>	Cth	Section 5(1)	Direct discrimination - A person discriminates against another person on the ground of a disability of the aggrieved person if, because of the disability, the discriminator treats or proposes to treat the aggrieved person less favourably than the discriminator would treat a person without the disability in circumstances that are not materially different.
			Section 5(2)	Direct discrimination - A person also discriminates against another person on the ground of a disability if the discriminator does not make, or proposes not to make, reasonable adjustments for the person and the failure to make adjustments has the effect that the aggrieved person is treated less favourably than a person without the disability would be treated in circumstances that are not materially different.
			Section 6(1)	A person discriminates against another person on the ground of a disability if the discriminator requires or proposes to require the aggrieved person to comply with a requirement or condition and because of the disability, the aggrieved person does not or would not comply, or is not able or would not be able to comply with the requirement or condition; and the

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<p>services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development</p> <p>4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.</p>				requirement or condition has, or is likely to have, the effect of disadvantaging persons with the disability.
			Section 6(2)	A person discriminates against another person on the ground of a disability of the aggrieved person if the discriminator requires or proposes to require the aggrieved person to comply with a requirement or condition and because of the disability, the aggrieved person would comply, or would be able to comply, with the requirement or condition only if the discriminator made reasonable adjustments for the person, but the discriminator does not do so or proposes not to do so; and the failure to make reasonable adjustments has, or is likely to have, the effect of disadvantaging persons with the disability.
			Section 8	This Act applies in relation to having a carer, assistant, assistance animal or disability aid in the same way as it applies in relation to having a disability.
			Section 15	It is unlawful for an employer or a person acting or purporting to act on behalf of an employer to discriminate against a person on the ground of the other person's disability.
			Sections 16 - 17	In summary, it is unlawful for an individual to discriminate against a commission agent or contract worker on the ground of the other person's disability.
			Section 18	It is unlawful to for an individual to discriminate against another person on the ground of the other person's disability in determining who should be invited to become a partner in a partnership or in the terms or conditions on which the other

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				person is invited to become a partner in the partnership.
			Section 19	It is unlawful for an authority or qualifying body to discriminate against a person on the ground of the person's disability.
			Section 20	It is unlawful for a registered organisation under the <i>Fair Work (Registered Organisations) Act 2009</i> to discriminate against a person on the ground of the person's disability by refusing to accept the person's application for membership or in the terms or conditions on which the organisation is prepared to admit the person to membership.
			Section 21	It is unlawful for an employment agency to discriminate against a person on the ground of the person's disability: by refusing to provide the person with any of its services; or in the terms or conditions on which it offers to provide the person with any of its services; or in the manner in which it provides the person with any of its services.
			Section 22	It is unlawful for an educational authority to discriminate against a person on the ground of the person's disability: (a) by refusing or failing to accept the person's application for admission as a student; or (b) in the terms or conditions on which it is prepared to admit the person as a student; or (c) by denying the student access, or limiting the student's access, to any benefit provided by the educational authority;

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				<p>or</p> <p>(d) by expelling the student; or</p> <p>(e) by subjecting the student to any other detriment; or</p> <p>(f) by developing curricula or training courses having a content that will either exclude the person from participation, or subject the person to any other detriment; or</p> <p>(g) by accrediting curricula or training courses having such a content.</p>
			Section 23	It is unlawful for a person to person to discriminate against another person on the ground of the other's disability in relation to access to, or the use of, any premises that the public or a section of the public is entitled or allowed to enter or use (whether for payment or not).
			Section 24	It is unlawful for a person who, whether for payment or not, provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's disability by refusing to provide the other person with those goods or services or to make those facilities available to the other person; or in the terms or conditions on which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person.
			Sections 25 - 26	In summary, it is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground

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				of the person's disability in relation to accommodation and land.
			Section 27	It is unlawful for a club or incorporated association, the committee of management of a club or a member of the committee of management of a club or incorporated association to discriminate against a person who is not a member of the club or association on the ground of the person's disability: (a) by refusing or failing to accept the person's application for membership; or (b) in the terms or conditions on which the club or association is prepared to admit the person to membership.
			Section 28	It is unlawful for a person to discriminate against another person on the ground of the other person's disability by excluding that other person from a sporting activity.
	Carers (Recognition) Act 2008	Cth	Sections 7 and 8 (similar provisions can be found in the <i>Carers (Recognition) Act 2010 (NSW)</i> ; <i>Carers Recognition Act 2012 (VIC)</i> and <i>Carers (Recognition) Act 2008 (QLD)</i>).	Each public service agency is to take all practicable measures to ensure that: (a) its employees and agents have an awareness and understanding of the Statement of Australia's Carers; (b) it takes action to reflect the principles of the Statement for Australia's Carers in developing, implementing, providing and evaluating care supports; and (c) each public service care agency is to consult carers, or bodies that represent carers, when developing or evaluating care supports.

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				For the purposes of this Act, a carer is an individual who provides personal care, support and assistance to another individual who needs it because that other individual: (a) has a disability; or (b) has a medical condition (including a terminal or chronic illness); or (c) has a mental illness; or (d) is frail and aged.
	Disability Services Act 1986	Cth	Section 10 (similar provisions can be found in Division 2 of the <i>Disability Services Act 1993 (NSW)</i> ;	The Minister may approve the making of a grant of financial assistance to a State or eligible organisation in relation to the provision by the State or eligible organisation of an eligible service for persons included in the target group. 'Eligible service' means a service of any of the following kinds: accommodation support services; independent living training services; information services; print disability services; recreation services; respite care services and other services approved by the Minister under this Act. 'Target group' for the purposes of this section and part of the Act consists of persons with a disability that: (a) is attributable to an intellectual, psychiatric, sensory or physical impairment or a combination of such impairments; (b) is permanent or likely to be permanent; and (c) results in (i) a substantially reduced capacity of the person for communication, learning or mobility; and (ii) the need for ongoing support services.
	Section 20	The Secretary may, for the purposes of a rehabilitation program (including any follow-up program), provide, or arrange for the provision of, the following:		

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				<p>(a) employment and vocational training, educational courses and programs, and mobility and other independent living training;</p> <p>(b) diagnostic and assessment services, occupational therapy, physiotherapy, speech therapy, and counselling and social work services;</p> <p>(c) accommodation, transportation and personal support services;</p> <p>(d) prostheses and aids, including:</p> <p>(i) home and work-place modifications; and</p> <p>(ii) modifications to vehicles, appliances and equipment;</p> <p>(e) the maintenance and repair of prostheses and aids;</p> <p>(f) books, tools of trade and other equipment and appliances;</p> <p>(g) any other goods and services the Secretary considers necessary or desirable.</p> <p>The 'Target Group' for the purposes of this Part consists of persons who: (a) have attained 14 years of age but have not attained 65 years of age; and (b) have a disability that: (i) is attributable to an intellectual, psychiatric, sensory or physical impairment or a combination of such impairments; and (ii) results in a substantially reduced capacity of the person: (A) to obtain or retain unsupported paid employment; or (B) to</p>

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				live independently.
	Social Security Act 1991	Cth	Section 197D	A person qualifies for a carer payment if the person personally provides constant care for one or more persons aged under 16 each with a disability or medical condition. This section prescribes various other conditions which must be met before a person qualifies for a carer payment including an income threshold for the care receiver and medical certification in relation to the disability.
			Section 953(2)	A person is qualified for carer allowance for 2 disabled children if certain conditions are met, including that each care receiver is a dependent child and an Australia resident
	School Assistance Act 2008	Cth	Section 96	The Minister may make a determination authorising payment of financial assistance to a State for expenditure for a program year connected with non-government schools (including schools providing special education) in the State to improve the learning outcomes of students with disabilities.
	School Assistance Act 2008	Cth	Section 97	The Minister may make a determination authorising payment of financial assistance to a State for expenditure for a program year connected with non-government schools (including schools providing special education) in the State to improve the learning outcomes of students who are educationally disadvantaged. 'Students who are educationally disadvantaged' includes students with disabilities.

2. New South Wales

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<p>ARTICLE 23</p> <p>1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.</p> <p>2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.</p> <p>3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to</p>	<p>Education Act 1990</p>	<p>NSW</p>	<p>Section 20</p>	<p>The Minister may provide or arrange special or additional assistance (including financial assistance, facilities, courses of study, staff, staff training or distance education) for government school children with special needs, including children with disabilities.</p>

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<p>the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development</p> <p>4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.</p>				

3. Victoria

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	<p>Section 5(2)</p>	<p>Persons with a disability have the same right as other members of the community to:</p> <ul style="list-style-type: none"> (a) respect for their human worth and dignity as individuals; (b) live free from abuse, neglect or exploitation; (c) realise their individual capacity for physical, social, emotional and intellectual development; (d) exercise control over their own lives; (e) participate actively in the decisions that affect their lives and have information and be supported where necessary, to enable this to occur; (f) access information and communicate in a manner appropriate to their communication and cultural needs; (g) services which support their quality of life. 		
	<p>Education and Training Reform</p>	<p>VIC</p>	<p>Section 2.2.6</p>	<p>A parent of a student with a disability or impairment is not required to contribute to the cost of the provision of additional support for the education in a Government school</p>

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recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development	Act 2006		Section 5.4.7	of that student. The Minister may suspend the operations of certain conditions around student work experience with respect to any student with a disability or impairment.
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.	Equal Opportunity Act 2010	VIC	Section 6	An attribute on the basis of which discrimination is prohibited is ' impairment ' or ' physical features '. This includes where a person with an impairment is accompanied by or possesses an assistance aid.

4. Queensland

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<p>the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development</p> <p>4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.</p>				

5. South Australia

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<p>ARTICLE 23:</p> <p>1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.</p> <p>2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.</p> <p>3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has</p>	<p>Adoption Act 1988</p>	<p>SA</p>	<p>26(a)</p>	<p>The Minister may enter into an arrangement with prospective adoptive parents to contribute to the support of the child after the adoption order is made, where the child being adopted suffers from some physical or mental disability.</p>
	<p>Children's Protection Act 1993</p>	<p>SA</p>	<p>52A and 52C</p>	<p>52A states that there is to be a Guardian for Children and Young Persons.</p> <p>When exercising his or her functions under the Act, the Guardian is required to pay particular attention to the needs of children under the guardianship, or in the custody, of the Minister who have a physical, psychological or intellectual disability (52C(2)(b)).</p> <p>52C(1) states that the Guardian's functions include:</p> <p>(a) promoting the best interests of children under the guardianship, or in the custody, of the Minister, and in particular those in alternative care;</p> <p>(b) acting as an advocate for the interests of children under the guardianship, or in the custody, of the Minister;</p> <p>(c) monitoring the circumstances of children under the guardianship, or in the custody, of the Minister;</p> <p>(d) providing advice to the Minister on the quality of the</p>

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<p>effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development</p> <p>4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.</p>				<p>provision of care for children under the guardianship, or in the custody of, the Minister and on whether the children's needs are being met;</p> <p>(e) inquiring into, and provide advice to the Minister in relation to, systemic reform necessary to improve the quality of care provided for children in alternative care; and</p> <p>(f) investigating and reporting to the Minister on matters referred to the Guardian by the Minister.</p>
			52J(d)(iii)	<p>The functions of the Council for the Care of Children includes the promotion of the safe care of children by their families and communities, with particular reference to children with disabilities.</p>
	Disability Services Act 1993	SA	2	<p>The <i>Disability Services Act</i> aims to:</p> <p>(a) set out principles that are to be applied with respect to persons with disabilities;</p> <p>(b) set out objectives for providers of disability services and for researchers;</p> <p>(c) provide for the funding of disability services and research or development activities; and</p> <p>(d) ensure that disability services and research or development activities funded under the Act are provided or carried out in a manner that applies those principles and meets those objectives.</p>

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			4	<p>In furtherance of the objects of the Act, the Minister may approve and grant funding for disability services and research or development activities:</p> <ul style="list-style-type: none"> - to any person, body or authority, including any government, non-government or local government body or authority; or - to any person with a disability or a carer of such a person, for the purpose of obtaining the care, support or assistance the person with the disability or the carer may need.
			5(1), Schedule 1 and Schedule 2	<p>5(1) states that a provider of disability services or researcher funded under the Act must apply the principles and meet the objectives set out in the Schedules to the Act.</p> <p>The Principles set out in Schedule 1 are that:</p> <p>(1) Persons with disabilities, whatever the origin, nature or degree of their disabilities might be, are individuals who have the:</p> <ul style="list-style-type: none"> (a) inherent right to respect for their human worth and dignity; (b) same fundamental human rights and responsibilities as other members of the Australian community; (c) same right as other members of the Australian community to realise their potential for intellectual, physical, social, emotional, sexual and spiritual development; and (d) same right as other members of the Australian community

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				<p>to choose their own lifestyle and generally to control their own lives.</p> <p>(2) Persons with disabilities have a right to protection from neglect, abuse, intimidation and exploitation.</p> <p>(3) Persons with disabilities have the same right as other members of the Australian community to assistance and support that will enable them to exercise their rights, discharge their responsibilities and attain a reasonable quality of life.</p> <p>(4) In receiving the services that supply such assistance and support, persons with disabilities have the right to:</p> <p>(a) choose between those services, and to choose between the options available within a particular service, so as to provide assistance and support that best meets their individual (including cultural) needs; and</p> <p>(b) have those services provided in a manner that:</p> <p>(i) involves the least restriction of their rights and opportunities;</p> <p>(ii) takes into account their individual needs, goals, age and other personal circumstances; and</p> <p>(iii) takes into account any further disadvantage that may be suffered as a result of their gender, ethnic origin, aboriginality, financial situation or location; and</p>

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				<p>(c) pursue any grievance in relation to those services without fear of the discontinuance of services or of recriminations or retribution from service providers.</p> <p>The Objectives set out Schedule 2 are that:</p> <p>(1) Disability services are to be designed and administered so as to:</p> <p>(a) achieve positive outcomes for persons with disabilities, such as an enhanced image and level of competence, increased independence, increased education, training and employment opportunities and integration into, and participation in the life of, the community;</p> <p>(b) ensure that the conditions of the day-to-day life of persons with disabilities are as close as possible to those of other members of the community;</p> <p>(c) meet the individual needs and goals of the persons to whom the services are provided taking into account their age and other personal circumstances and any further disadvantage suffered as a result of their gender, ethnic origin, aboriginality, financial situation or location;</p> <p>(d) ensure that no single service provider exercises control over all or most of the aspects of the life of a person with a disability;</p> <p>(e) render the service provider accountable to all persons who use the service, the carers and advocates of persons with disabilities who use the service, the Minister and all other</p>

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				<p>interested persons, through the provision of information relating to the services provided and their administration;</p> <p>(f) ensure that the persons to whom the services are provided have their right to privacy and confidentiality respected;</p> <p>(g) ensure that persons with disabilities who wish to use the services have easy access to advocacy support to facilitate their use of the services and their participation in any decision making relating to their use of the services;</p> <p>(h) ensure that appropriate avenues exist for the persons who use the services to raise and have resolved any grievance they may have in relation to a service or the manner in which it is administered; and</p> <p>(i) to allow, to the extent possible, the persons who use the services the opportunity for informed participation in the design, development, management and evaluation of the services.</p> <p>(2) Disability services are to be provided as part of local coordinated service systems and are to be integrated, where it is appropriate and practicable to do so, with services generally available to the community.</p> <p>(3) The providers of disability services are to take the following matters into consideration in determining eligibility for and priority of access to the services and in assessing the needs of a person with a disability who is accorded access to a service, the:</p>

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				<p>(a) person's wishes;</p> <p>(b) level of disability and its impact on the person;</p> <p>(c) needs and capabilities of any carers;</p> <p>(d) extent of support and assistance (if any) provided or available to the person from all other sources;</p> <p>(e) implications of any decision for carers and members of the person's family; and</p> <p>(f) such other matters as may be considered relevant.</p>
			6	<p>6(1) states that before making any major decisions relating to the development, funding or discontinuance of disability services or research or development activities, the Minister must, to the extent practicable, consult with persons with disabilities or carers likely to be affected by the decision.</p> <p>6(2) states that the Minister should also encourage the informed participation of persons with disabilities and carers in the design, development, management and evaluation of disability services.</p>
			7	<p>A disability service or research or development activity funded under the Act must be reviewed by the Minister at intervals of not more than three years, to assess the extent to which the principles and objectives set out in the Schedules are being applied and met.</p>

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	Education Act 1972	SA	75A	<p>If satisfied that a child has disabilities or learning difficulties and it is in the child's best interests, the Director-General may direct that the child be enrolled at a special school or some other particular Government school nominated in the direction (75A(1)).</p> <p>The Director-General may give such a direction, or vary or revoke such a direction made either</p> <ul style="list-style-type: none"> - at his or her own initiative or - upon the application of a parent of the child, <p>but, in either case, after taking reasonable steps to consult each parent of the child (75(3)).</p>
	Education Regulations 2012	SA	65	<p>If a child is presented for enrolment at a school and the head teacher forms the view that the child has disabilities or learning difficulties that would make the child incapable of gaining reasonable benefit from instruction at the school or would seriously interfere with the instruction of other children at the school, the head teacher must:</p> <ul style="list-style-type: none"> (a) inform each parent of the child of his or her opinion; (b) enrol the child at the school but excuse him or her from attendance pending a direction of the Director-General under section 75A(1) of the <i>Education Act 1972</i>; and (c) prepare a report and recommendation as to the means by

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				which the educational needs of the child might be best met in relation to school placement and curriculum and forward the report to the Director-General.
			82	<p>Where a child, considered by the Director-General to have a disability, attends an approved special school, centre or class the Director-General may:</p> <ul style="list-style-type: none"> - approve payment of the total cost of transporting that child to that school, centre or class, or - pay an allowance to a parent who transports his or her child to that school, centre or class. <p>Note: 'special school, centre or class' is defined in the Act to mean a school, centre or class for the education and training of children with disabilities.</p>
			84	Where a student of secondary school age has a disability and is living away from home for the purpose of attending a primary school approved by the Director-General, the Minister may grant an allowance to be paid towards the living expenses of the student.
	Equal Opportunity Act 1984	SA	66	<p>A person discriminates on the ground of disability if:</p> <p>(a) he or she treats another unfavourably because of the other's disability, or a past disability or a disability that may exist in the future;</p> <p>(b) he or she treats another unfavourably because the other</p>

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				<p>does not comply, or is not able to comply, with a particular requirement and:</p> <p>(i) the nature of the requirement is such that a substantially higher proportion of persons who do not have such a disability complies, or is able to comply, with the requirement than of those persons who have such a disability; and</p> <p>(ii) the requirement is not reasonable in the circumstances of the case;</p> <p>(c) he or she treats another unfavourably on the basis of a characteristic that appertains generally to persons who have such a disability, or on the basis of a presumed characteristic that is generally imputed to persons who have such a disability;</p> <p>(ca) he or she:</p> <p>(i) fails to provide a safe and proper means of access to, or use of, a place or facilities for a person who requires special means of access to, or use of, the place or facilities as a consequence of the person's disability; or</p> <p>(ii) treats another unfavourably because the other requires special means of access to, or use of, a place or facilities as a consequence of the other's disability, to the extent that he or she is able to effect the provision of access or use;</p> <p>(d) if, in circumstances where it is unreasonable to do so:</p>

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				<p>(i) he or she fails to provide special assistance or equipment required by a person in consequence of the person's disability; or</p> <p>(ii) he or she treats another unfavourably because the other requires special assistance or equipment as a consequence of the other's disability;</p> <p>(e) if he or she treats a person with a disability unfavourably because the person possesses, or is accompanied by, an assistance animal, or because of a related matter; or</p> <p>(f) if he or she treats another unfavourably because of an attribute of or a circumstance affecting a relative or associate of the other.</p> <p>Note: Relevant exceptions are set out in section 81 in relation to sporting activities and section 84 for unjustifiable hardship.</p>
			72(1)	<p>It is unlawful for an association to discriminate against an applicant for membership on the ground of disability:</p> <ul style="list-style-type: none"> - by refusing or failing to admit the applicant to membership, or to a particular class of membership, of the association; or - in the terms on which the applicant is, or may be, admitted to membership, or to a particular class of membership. <p>It is also unlawful for an association to discriminate against member of the association on the ground of disability:</p> <ul style="list-style-type: none"> - by refusing or failing to provide a particular service or

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				<p>benefit to that member;</p> <ul style="list-style-type: none"> - in the terms on which a particular service or benefit is provided to that member; or - by expelling that member from the association or subjecting him or her to other detriment.
			74	<p>74(1) states that it is unlawful for an educational authority to discriminate against a person on the ground of disability:</p> <ul style="list-style-type: none"> - by refusing or failing to accept an application for admission as a student; or - in the terms or conditions on which it offers to admit the person as a student. <p>74(2) states that it is unlawful for an educational authority to discriminate against a student on the ground of disability:</p> <ul style="list-style-type: none"> - in the terms or conditions on which it provides the student with education or training; - by denying or limiting access to a benefit provided by the authority; - by expelling the student; or - by subjecting the student to other detriment.
			76	76(1) states that it is unlawful for a person who offers or provides goods or services to which the Act applies, (whether

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				<p>for payment or not) to discriminate against another on the ground of disability:</p> <ul style="list-style-type: none"> - by refusing or failing to supply the goods or perform the services; or - in the terms or conditions on which or the manner in which the goods are supplied or the services are performed.
			88	<p>It is unlawful and an offence to impose a condition or requirement that would result in a person with a disability being separated from his or her assistance animal (Maximum penalty: \$2 500).</p>
			88A	<p>88A states that it is unlawful for a person:</p> <ul style="list-style-type: none"> - to refuse an application for accommodation; or - to defer such an application or give the applicant a late order of precedence on a list of applicants for that accommodation, because the applicant intends to keep a therapeutic animal at that accommodation. <p>However, 88A(2) states that it is not unlawful to do the above if that person can establish that the refusal was reasonable in the circumstances of the case.</p> <p>88(3) defines 'therapeutic animal' to mean an animal certified by a medical practitioner as being required to assist a person as a consequence of the person's disability; or an animal of a class prescribed by regulation, but does not include an assistance animal, a dangerous dog within the</p>

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				<p>meaning of the <i>Dog and Cat Management Act 1995</i> or a dog of a prescribed breed within the meaning of the <i>Dog and Cat Management Act 1995</i>.</p>
			93	<p>93(1)(c) states that if a person aggrieved by an act performed in contravention of the <i>Equal Opportunity Act 1984</i> is a child or has an intellectual disability, a complaint alleging that such a contravention has taken place may be made by a person who is, in the opinion of the Commissioner, a suitable representative of the interests of the aggrieved person.</p> <p>Note: This section also sets out the procedure to be followed for making a complaint.</p>
	<p>Family and Community Services Act 1972</p>	SA	10	<p>10(1) states that the objectives of the Minister and the Department under the <i>Family and Community Services Act</i> are to:</p> <p>(a) promote the welfare of the community generally and of individuals, families and groups within the community; and</p> <p>(b) to promote the dignity of the individual and the welfare of the family as the bases of the welfare of the community, by, among other things, providing and assisting in the provision of or promotion of services designed to assist mentally or physically handicapped persons.</p> <p>In providing any service, the Minister and the Department must:</p> <p>- endeavour to preserve and foster the dignity, self-respect and independence of the persons to whom the service is being</p>

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				<p>provided (10(2)); and</p> <p>- not discriminate against or in favour of any person on the ground of mental or physical impairment, except so far as it is necessary to do so for the purpose of assisting a person to overcome any social or other disadvantage arising out of his or her mental or physical impairment (10(3)).</p> <p>10(4) states that in administering the Act, the Minister and the Department must take into consideration the different traditions, cultural values and religious beliefs of ethnic or racial groups within the community.</p> <p>10(5) states that the Minister, for the purpose of giving effect to the provisions and objects of the Act, may</p> <p>(a) employ the resources of the Department in such manner as the Minister thinks fit;</p> <p>(b) establish any facility;</p> <p>(c) acquire land in accordance with the provisions of the <i>Land Acquisition Act 1969</i>; and</p> <p>(d) or perform any other action that may be necessary and expedient for that purpose.</p>
			135	<p>135(1) states that where a Magistrate's court is satisfied that an order for maintenance is necessary:</p> <p>(a) for the purposes of enabling a child to undertake or complete a course of education or training that will fit the</p>

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				<p>child for a profession, trade or occupation in which to earn a livelihood; or</p> <p>(b) if the child is unable to earn a livelihood by reason of physical or mental incapacity, for the purposes of maintaining him or her,</p> <p>then it can make such an order against that child's relative for an amount specified and for a period specified that commences after or continues beyond the date at which the child attained or will attain the age of 18 years.</p> <p>Note: This does not apply in respect of a course of education or training commenced after a child attains the age of 21 years; or in respect of any physical or mental incapacity occurring after a child attains the age of 18 years (135(2)).</p> <p>135(4) states that the amount specified in such an order may include allowance for or towards the expenses incurred or to be incurred in undertaking or completing a course of education or training as the court thinks proper.</p>
	<p>Guardianship and Administration Act 1993</p>	SA	21(1)	<p>The functions of the Public Advocate are to:</p> <p>(a) keep under review, within both the public and the private sector, all programmes designed to meet the needs of mentally incapacitated persons;</p> <p>(b) identify any areas of unmet needs, or inappropriately met needs, of mentally incapacitated persons and to recommend to the Minister the development of programmes for meeting</p>

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				<p>those needs or the improvement of existing programmes;</p> <p>(c) speak for and promote the rights and interests of any class of mentally incapacitated persons or of mentally incapacitated persons generally;</p> <p>(d) speak for and negotiate on behalf of any mentally incapacitated person in the resolution of any problem faced by that person arising out of his or her mental incapacity;</p> <p>(e) give support to and promote the interests of carers of mentally incapacitated persons;</p> <p>(f) give advice on the powers that may be exercised under the Act in relation to mentally incapacitated persons, on the operation of the Act generally and on appropriate alternatives to taking action under the Act;</p> <p>(g) monitor the administration of the Act and, if he or she thinks fit, make recommendations to the Minister for legislative change; and</p> <p>(h) perform such other functions as are assigned to the Public Advocate by or under the Act or any other Act.</p> <p>Note: 'Mentally incapacitated person' is defined in the Act to mean a person with a mental incapacity. 'Mental incapacity' is defined to include the inability of a person to look after his or her own health, safety or welfare or to manage his or her own affairs, as a result of imperfect or delayed development, impairment or deterioration, of the brain or mind; or any physical illness or condition that</p>

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				renders the person unable to communicate his or her intentions or wishes in any manner whatsoever.
			59	A relative has the power to provide effective consent to medical and dental treatment (not being prescribed treatment) on behalf of a person who, by reason of his or her mental incapacity, is incapable of giving effective consent, and who does not have a medical agent who is available and willing to make a decision as to the giving of consent to the medical or dental treatment of the person.
			61	<p>61(1) makes it an offence for a medical practitioner to give prescribed treatment to a person without the Guardianship Board's consent.</p> <p>61(2) states that the Guardianship Board cannot consent to a sterilisation unless:</p> <p>(a) it is satisfied that it is therapeutically necessary for the sterilisation to be carried out on the person; or</p> <p>(b) it is satisfied:</p> <p>(i) that there is no likelihood of the person acquiring at any time the capacity to give an effective consent; and</p> <p>(ii) that the person is physically capable of procreation; and</p> <p>(iii) that:</p> <p>(A) the person is, or is likely to be, sexually active, and there is no method of contraception that could, in all the</p>

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				<p>circumstances, reasonably be expected to be successfully applied; or</p> <p>(B) in the case of a woman, cessation of her menstrual cycle would be in her best interests and would be the only reasonably practicable way of dealing with the social, sanitary or other problems associated with her menstruation.</p> <p>61(3) prohibits the Guardianship Board from consenting to a termination of pregnancy unless it is satisfied:</p> <ul style="list-style-type: none"> - that the carrying out of the termination would not constitute an offence under the <i>Criminal Law Consolidation Act 1935</i>; - that there is no likelihood of the woman acquiring the capacity to give an effective consent within the period that is reasonably available for the safe carrying out of the termination, and - that it has no knowledge of any refusal on the part of the woman to consent to the termination, being a refusal that was made while capable of giving effective consent and that was communicated by her to a medical practitioner. <p>61(5) states that before consenting to the carrying out of any prescribed treatment, the Guardianship Board must, if it thinks it appropriate to do so, allow the person's parents whose whereabouts are reasonably ascertainable a reasonable opportunity to make submissions to the Guardianship Board on the matter, but the Guardianship Board is not required to do so if of the opinion that to do so would not be in the best</p>

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				<p>interests of the mentally incapacitated person.</p> <p>61(6) states that a decision of the Guardianship Board to give consent to such treatment has no force or effect until the period for appeal against the decision has expired or, if an appeal has been instituted, until the appeal is dismissed or withdrawn.</p> <p>Note: Section 63 states that the Guardianship Board 's consent must be given in writing.</p>
			76	<p>A person commits an offence if they have the oversight, care or control of a person with a mental incapacity and ill-treat or wilfully neglect that person (Maximum penalty: \$10 000 or imprisonment for 2 years).</p>

6. Western Australia

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

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<p>ARTICLE 23</p> <p>1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.</p> <p>2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.</p> <p>3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education,</p>	<p>Equal Opportunity Act 1984</p>	<p>WA</p>	<p>3</p>	<p>Objects of the Act include to eliminate discrimination against persons on the ground of impairment.</p>
			<p>4</p>	<p>Definitions:</p> <p>'impairment' in relation to a person means:</p> <p>any defect or disturbance in the normal structure or functioning of a person's body;</p> <p>any defect or disturbance in the normal structure or functioning of a person's brain; or</p> <p>any illness or condition which impairs a person's thought processes, perception of reality, emotions or judgment or which results in disturbed behaviour,</p> <p>whether arising from a condition subsisting at birth or from an illness or injury and includes an impairment -</p> <p>which presently exists or existed in the past but has now ceased to exist; or</p> <p>which is imputed to the person.</p>
			<p>66A(1)</p>	<p>A person discriminates against another on the ground of impairment if the discriminator treats the aggrieved person</p>

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<p>training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development</p> <p>4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.</p>				less favourably than a person without an impairment.
			66A(1a)	A person discriminates against another on the ground of impairment if the aggrieved person has a relative or associate with an impairment and the discriminator treats the aggrieved person less favourably than a person without such an impairment.
			66A(3)	<p>A person discriminates against another on the ground of impairment if the discriminator requires the aggrieved person to comply with a requirement or condition:</p> <p>with which a higher proportion of persons without the impairment are able to comply; and</p> <p>which is not reasonable; and</p> <p>with which the aggrieved person cannot comply.</p>
			66A(4)	A person discriminates against a blind or deaf person if the discriminator treats the aggrieved person less favourably because they possess a guide dog or hearing dog
			66B(1)	It is unlawful for an employer to discriminate against a person on grounds of impairment in arrangements made for the purpose of determining who should be offered employment and in terms or conditions on which employment is offered.
			66B(2)	It is unlawful for an employer to discriminate against an employee on grounds of impairment in the terms or conditions of employment afforded the employee, by denying

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				the employee access to opportunities for promotion, transfer or training, by dismissing the employee or by subjecting the employee to other detriment.
			66C	It is unlawful for a principal to discriminate against a person on grounds of impairment in engaging a commission agent or in conditions afforded to a commission agent.
			66D	It is unlawful for a principal to discriminate against a contract worker on grounds of impairment.
			66E	Six or more partners in a partnership cannot discriminate on grounds of impairment as to who should be invited to join the partnership or by limiting a partner's access to benefits, expelling the partner or subjecting them to any other detriment.
			66F	It is unlawful on the grounds of impairment to deny access to membership of a professional or trade organisation or subject a member to any detriment.
			66G	It is unlawful for qualifying bodies to discriminate on grounds of impairment.
			66H	It is unlawful for employment agencies to discriminate on grounds of impairment.
			66I(1) & (2)	It is unlawful for educational authorities to discriminate on grounds of impairment.
			66I(3)	Section does not apply to a refusal or failure to accept a

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				person's application for admission as a student at an educational institution conducted solely for students with an impairment which the applicant does not have.
			66I(4)	Section does not apply to a refusal or failure to accept a person's application for admission as a student at an educational institution where the person would require special services or facilities and the provision of which would impose unjustifiable hardship on the educational authority.
			66J	It is unlawful to discriminate on grounds of impairment by refusing to allow the aggrieved person access to or the use of any place or vehicle that the public is entitled to enter or use, for payment or not or on in the terms on which access or use is allowed or by requiring the aggrieved person to leave or cease to use any place or vehicle or facilities.
			66K	It is unlawful for a person who provides goods or services, whether or not for payment, to discriminate on the grounds of impairment by refusing to provide goods and services or in the terms or in the manner in which the person provides the goods and services.
			66L(1)	It is unlawful for a principal or agent to discriminate on grounds of impairment by refusing an application for accommodation, in the terms on which accommodation is offered, deferring an application for accommodation or according a lower order of precedence to an applicant.
			66L(3)	Section does not apply to various situations including where accommodation is provided by a charity solely for persons

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				with an impairment or if special services /facilities would be required by the person and that would impose unjustifiable hardship on the person proposing to provide the accommodation.
			66M	It is unlawful for a club or incorporated association to discriminate on the grounds of impairment by refusing to accept an application for membership, in the terms or conditions of membership, denying access to any benefit provided by the club or subjecting the member to any other detriment.
			66N(1)	It is unlawful to discriminate on the grounds of impairment by excluding the person from a sporting activity.
			66N(2)	Section does not apply in various situations including if the person is not adequately capable of performing the actions required in relation to the sporting activity.
			66O	Where it would be unlawful for a person to discriminate against another on grounds of impairment, it is unlawful to request the other person to provide information (by way of completing a form or otherwise) that persons without an impairment are not required to provide.
			66P	It is unlawful for a superannuation scheme or provident fund to discriminate on grounds of impairment by providing a fund that discriminates or in the manner in which the fund is administered. Exception is where the discrimination is based upon actuarial

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				or statistical data from a source it is reasonable to rely on.
			66Q	Sets out exceptions to work related provisions in this Division.
			66R	It is not unlawful to do an act the purpose of which is to ensure persons with an impairment have equal opportunities with other persons or to afford persons with an impairment access to facilities or services to meet their special needs in relation to employment, education, training or welfare.
			66T	It is not unlawful to discriminate on the grounds of impairment with respect to the terms on which a policy of insurance is offered where the discrimination is based on actuarial or statistical data from a source that is reasonable to rely on.
	Disability Services Act	WA	3 (terms used in the Act)	'Disability' means a disability attributable to an intellectual, sensory, physical or psychiatric impairment or combination of these. 'service provider' means an individual or organisation that provides disability services other than disability services provided by carers.
			12	Sets out functions of the Disability Services Commission.
			23	Sets out functions of Ministerial Advisory Council on Disability.
24(1)			The Commission may approve a grant of financial assistance	

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				to a person with a disability, a carer, a service provider or a service developer.
			24(2)	The Minister must have regard to furthering the principles in Schedule 1 of the Act (Principles applicable to people with disabilities) and meeting the objectives in Schedule 2 of the Act (Objectives for services and programmes) when approving funding.
			28	Each public authority must have a disability access and inclusion plan which furthers the principles in Schedule 1 and meets the objectives in Schedule 2.
			29B	A public authority must take all practicable measures to ensure its disability access and inclusion plan is implemented by the public authority and its officers, employees, agents or contractors.
			Part 6 and 30AA	Part deals with complaints about disability services including investigation of complaints and is to be read in conjunction with the <i>Health and Disability Services (Complaints) Act 1995</i> .
			53	A person who ill-treats or wilfully neglects a person with a disability while that person is under his or her care, supervision or authority commits an offence. Penalty: \$4000 or 12 months' imprisonment

7. Northern Territory

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

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<p>ARTICLE 23</p> <p>1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.</p> <p>2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.</p> <p>3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation</p>	<p>Anti - Discrimination Act</p>	<p>NT</p>	3	Objects of the Act include to eliminate discrimination against persons on the ground of impairment.
			4	<p>Definitions:</p> <p>The definition of 'impairment' includes 'physical or intellectual disability'.</p> <p>The definition of 'prohibited conduct' includes 'failure to accommodate a special need'.</p>
			19	A person shall not discriminate against another on the stated grounds, including impairment, unless an exemption applies.
			21	Discrimination on the grounds of impairment includes discriminating against a person with a visual, hearing or mobility impairment because the person has a guide dog.
			24	A person shall not fail to accommodate a special need that a person has because of an attribute.
			27	A person who induces, assists etc. another person to contravene the Act is jointly and severally liable for the contravention.
			28	The Act applies to prohibited conduct in the areas of:

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<p>services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development</p> <p>4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.</p>				<p>education; and</p> <p>work; and</p> <p>accommodation; and</p> <p>goods, services and facilities; and</p> <p>clubs; and</p> <p>insurance and superannuation.</p>
			29 (1)	<p>An educational authority shall not discriminate on grounds of impairment:</p> <p>(a) by not accepting an application for admission:</p> <p>(i) refusing a person's admission as a student; and</p> <p>(ii) in arrangements or criteria used in deciding who should be offered admission; or</p> <p>(iii) in terms and conditions of admission.</p>
			29(2)	<p>An educational authority shall not discriminate:</p> <p>(a) in varying the terms and conditions of enrolment; or</p> <p>(b) by limiting access to any benefit arising from the enrolment; or</p> <p>(c) by excluding a student; or</p>

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				(d) by treating a student less favourably in any way.
			30(1)	Students of other sex may be excluded by an educational institution for students of a particular sex.
			30(2)	Students of another religion may be excluded by an educational institution for students of a particular religion.
			30(3)	Students without a general or specific impairment may be excluded by an educational institution for students with that impairment.
			31(1)	<p>A person shall not discriminate:</p> <ul style="list-style-type: none"> (a) in offering work; or (b) in terms and conditions of work offered; or (c) in refusing to offer work; or (d) by refusing to grant a person seeking work access to a guidance, vocational training or other occupational training or retraining program; or (e) in developing the scope or range of a program referred to in paragraph (d).
			31(2)	<p>A person shall not discriminate:</p> <ul style="list-style-type: none"> (a) in varying conditions of work; or (b) refusing, limiting access to opportunities for promotion,

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				<p>transfer, training or other benefit to a worker; or</p> <p>(c) dismissing a worker; or</p> <p>(d) treating a worker less favourably in any way.</p>
			35	<p>A person may discriminate against another person in the area of work:</p> <p>(a) by fixing reasonable terms and conditions because the person has a restricted capacity due to age or impairment; or</p> <p>(b) if the discrimination is based on genuine occupational qualification required or the person's inability to adequately perform the work even where the special need of the person has been or were to be accommodated.</p>
			39	<p>A person shall not discriminate against a person with an impairment by failing or refusing to allow the person to alter accommodation to meet the person's special needs if:</p> <p>(a) the alteration is at the person's expense; and</p> <p>(b) the alteration does not require an alteration to the accommodation of another person; and</p> <p>(c) the restoration of the accommodation is reasonably practicable; and</p> <p>(d) the person undertakes at his or her expense to restore the accommodation to its previous condition before leaving it.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			40(2B)	An educational authority that operates an institution for students who have a general or specific impairment may provide accommodation for students with that impairment.
			48	A person shall not discriminate by failing to supply insurance or superannuation or in the way it is supplied or in the terms and conditions it is supplied on.
			49	<p>A person may discriminate against a person with respect to a matter prohibited by this Division for various reasons including:</p> <p>(a) the discrimination is based on reasonable actuarial or statistical data and the discrimination is reasonable based on the data and other relevant factors; or</p> <p>(b) the discrimination is based on other data and is reasonable based on that data and any other relevant factors; or</p> <p>(c) if there is no reasonable actuarial or statistical data on which it is reasonable to rely, the discrimination is reasonable having regard to other relevant factors.</p>
			55	A person may discriminate against a person on the ground of impairment if the discrimination is reasonably necessary to protect public health.
			56	A person may restrict participation in a competitive sporting activity to people with a general or specific impairment.

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			57(1)	A person may discriminate against a person in an equal opportunity program for a group of people who are disadvantaged or have a special need because of an attribute.
			58 (1)	<p>A person may discriminate against a person with a special need if:</p> <p>(a) the other person would require special services or facilities; and</p> <p>(b) it is unreasonable to require the person to supply the special services or facilities.</p>
			58(2)	<p>Factors relevant to whether it is unreasonable to require a person to supply special services of facilities are:</p> <p>(a) the nature of the special services or facilities; or</p> <p>(b) the cost and the number of people who would benefit or be disadvantaged; or</p> <p>(c) the disruption; or</p> <p>(d) the nature of any benefit or detriment to all persons concerned.</p>
	Disability Services Act	NT	2 (interpretation)	<p>'Disability' means a disability attributable to an intellectual, sensory, physical or psychiatric impairment or combination of these.</p> <p>'Provider of services' means an organisation or a person that</p>

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				<p>provides services to persons with disabilities.</p> <p>'Resident', of a residential facility, means:</p> <p>(a) for a secure care facility - an adult with a disability receiving treatment and care in the facility under a treatment or supervision order;</p> <p>(b) for an appropriate place other than a secure care facility - an adult with a disability receiving treatment and care under a supervision or treatment order; or</p> <p>(c) for another residential facility - a person with a disability who is receiving treatment and care in the facility.</p> <p>ie - provisions of the Act dealing with secure care facilities only apply to adults.</p>
			3(1)	The Minister may approve funding to a provider of services, a researcher or a person with a disability.
			3(2)	The Minister must not approve funding unless it furthers the principles set out in Schedule 2 of the Act and the objectives set out in Schedule 3 of the Act.
			3(3)	The Minister must have regard to furthering the objects in Schedule 1 of the Act when approving funding.
			36(1)	The CEO must prepare a behaviour support plan for a person with a disability stating a range of strategies for managing the person's behaviour before they become a resident of a [secure

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				<p>care facility] sic.</p> <p>Note - this section refers to the person becoming resident of a 'secure care facility' however the remainder of the division refers to the broader concept of 'residential facility'. I consider that the words secure care facility have been used in error in this provision and have proceeded on the basis that it should refer to a residential facility. If it were limited to residents of a secure care facility then a behaviour support plan would only be applicable to adults however, I believe that they are applicable to all residents of residential facilities (including children).</p>
			36(2)	The behaviour support plan must include proactive strategies to build on the person's strengths and increase the person's life skills.
			36(3)	In preparing the behaviour support plan the CEO must consult with the person, providers of services to the person, guardian, primary carer and any other integral persons.
			38	The CEO must ensure that a behaviour support plan is in force for each resident of a secure care facility.
			41(1)	A person must not use a restrictive intervention on a resident of a residential facility.
			41(2)	<p>Restrictive intervention may be used if:</p> <p>(a) the use is necessary to prevent the resident causing physical harm to himself or others or destroying property if</p>

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				<p>that could cause harm to himself or others; and</p> <p>(b) the restrictive intervention is the least restrictive in the circumstances; and</p> <p>(c) the restrictive intervention is in accordance with the behaviour support plan of the resident; and</p> <p>(d) for the use of seclusion the resident is supplied with bedding, has adequate heating and cooling , food and drink, toilet arrangements, can communicate with staff, the seclusion is no longer than 3 hours and the resident is visited and observed at intervals of at least 15 minutes.</p>
			42(1)	Where a behaviour support plan does not provide for use of a restraint or seclusion, a provider of services may use these if satisfied there is an imminent risk of the resident causing serious physical harm to himself or others.
			Part 5	Provides for procedures to be established and followed to deal with complaints relating to residents of the facility.
			Part 6	<p>Provides for the community visitors program for community visitors to access residential facilities to amongst other things:</p> <p>(a) inquire into and make recommendations in relation to such things as the adequacy of information relating to the rights of residents receiving treatment; and</p> <p>(b) hear and facilitate the resolution of complaints of residents and help residents make complaints, apply for</p>

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				reviews or file notices of appeal under the Act.

8. Tasmania

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>ARTICLE 23</p> <p>1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.</p> <p>2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.</p> <p>3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education,</p>	<p>Guardianship and Administration Act 1995</p>	<p>TAS</p>	<p>5</p>	<p>The <i>Guardianship and Administration Act</i> aims, among other things, to make better provision for the authorization and approval of medical and dental treatment for persons with a disability who are incapable of giving informed consent to any such treatment; and to ensure that persons with a disability and their families are informed of, and make use of, the provisions of the Act.</p> <p>Note: 'disability' is defined in the Act to mean any restriction or lack (resulting from any absence, loss or abnormality of mental, psychological, physiological or anatomical structure or function) of ability to perform an activity in a normal manner.</p> <p>'medical or dental treatment or treatment' means:</p> <p>(a) medical treatment (including any medical or surgical procedure, operation or examination and any prophylactic, palliative or rehabilitative care) normally carried out by, or under, the supervision of a medical practitioner; or</p> <p>(b) dental treatment (including any dental procedure, operation or examination) normally carried out by or under the supervision of a dentist.</p>
			<p>6</p>	<p>A function or power conferred, or duty imposed, by the <i>Act</i> is</p>

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<p>training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development</p> <p>4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.</p>			<p>15</p>	<p>to be performed in a manner:</p> <ul style="list-style-type: none"> - that is least restrictive of a person's freedom of decision and action; and - that in the best interests of a person with a disability; and - such that the wishes of a person with a disability, if possible, are carried into effect. <p>The Public Guardian had the power to do all things necessary and convenient to be done to exercise its functions, which includes:</p> <ul style="list-style-type: none"> - fostering the provision of services and facilities for persons with a disability; and - supporting the establishment of organizations which support any such persons; and - encouraging the development of programmes that support any such persons (including advocacy programmes, educational programmes and programmes to encourage persons to act as guardians and administrators); and - promoting, speaking for and protecting the rights and interests of any such persons; and - dealing, on behalf of any such persons, with persons or bodies providing services; and - representing any such persons before the Guardianship and

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				<p>Administration Board; and</p> <ul style="list-style-type: none"> - investigating, reporting and making recommendations to the Minister on any matter relating to the operation of the Act; and - acting as a guardian or administrator when so appointed by the Board; and - giving advice on the powers that may be exercised under the Act relating to persons with a disability as to the operation of the Act generally and on appropriate alternatives to taking action under the Act.
			38	<p>It is a crime to carry out medical or dental treatment on a person who is incapable of giving such consent, unless the consent is authorised by some other provision in the Act.</p> <p>Note: A person is incapable of consenting to the carrying out of medical or dental treatment if that person is incapable of :</p> <ul style="list-style-type: none"> - understanding the nature and effect of the treatment; or - indicating whether or not he/she consents to the carrying out of treatment (see s 36)
			39	<p>Consent to medical or dental treatment to be performed on a person incapable of giving consent to such treatment may be given by either:</p> <ul style="list-style-type: none"> - the Guardianship and Administration Board; or

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				<p>- if the medical treatment or dental treatment is not special treatment, by the person responsible for that person (which is defined in section 4 of the Act to include, for a person under 18, a spouse, or if no spouse, a parent); or</p> <p>- a guardian (who may also consent to the carrying out of, or continuing, special treatment if the Board has previously given consent to the carrying out of, or continuing, that treatment and has authorized the guardian to give consent to the continuation of that treatment or to further treatment of a similar nature).</p> <p>Note: 'special treatment' is defined in the Act to include:</p> <p>(a) any treatment that is intended, or is reasonably likely, to have the effect of rendering permanently infertile the person on whom it is carried out; or</p> <p>(b) termination of pregnancy; or</p> <p>(c) any removal of non-regenerative tissue for the purposes of transplantation.</p>
			40	<p>Medical or dental treatment may be carried out on a person incapable of giving consent to such treatment, if the medical practitioner or dentist carrying out or supervising the treatment considers the treatment is necessary, as a matter of urgency:</p> <p>(a) to save the person's life; or</p>

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				<p>(b) to prevent serious damage to the person's health; or</p> <p>(c) except in the case of special treatment, to prevent the person from suffering or continuing to suffer significant pain or distress.</p>
			43	<p>43(1) states that a person responsible for a person incapable of consenting to the carrying out of medical or dental treatment, is capable of consenting to such treatment on their behalf (with the exception of special treatment) if he or she is satisfied that:</p> <p>(a) the relevant person is incapable of giving consent; and</p> <p>(b) the medical or dental treatment would be in the best interests of that person.</p> <p>43(2) states that in considering what would be in the 'best interests' of that person, the person responsible needs to take into account:</p> <p>(a) the wishes of that person, so far as they can be ascertained; and</p> <p>(b) the consequences to that person if the proposed treatment is not carried out; and</p> <p>(c) any alternative treatment available; and</p> <p>(d) the nature and degree of any significant risks associated with the proposed treatment or any alternative treatment; and</p>

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				(e) the fact that the treatment is to be carried out only to promote and maintain the health and wellbeing of that person.
	Anti-Discrimination Act 1998	TAS	16(k)	<p>A person must not discriminate against another person because they have a disability.</p> <p>Note: 'disability' is defined in the Act to include:</p> <ul style="list-style-type: none"> (a) a total or partial loss of the person's bodily or mental functions; and (b) total or partial loss of a part of the body; and (c) the presence in the body of organisms causing or capable of causing disease or illness; and (d) the malfunction, malformation or disfigurement of a part of a person's body; and (e) disorder, malformation, malfunction or disfigurement that results in the person learning differently from a person without the disorder, malformation, malfunction or disfigurement; and (f) a disorder, illness or disease that affects a person's thought processes, perceptions of reality, emotions or judgment or that results in disturbed behaviour; and (g) reliance on a guide-dog, wheelchair or other remedial or therapeutic device.

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			19(b)	A person must not commit a public act that incites hatred towards, serious contempt for, or severely ridicules a person or a group of persons because that person or someone in that group of persons has a disability.
	Disability Services Act 2011	TAS	3	<p>The <i>Disability Services Act 2011</i> aims to:</p> <ul style="list-style-type: none"> (a) provide for the funding of: <ul style="list-style-type: none"> (i) the provision of specialist disability services and certain other goods or services; and (ii) research or development activities; (b) provide for the effective planning, prioritisation and scrutiny of the provision of specialist disability services and grants made under the Act; (c) set out principles that are to be applied in relation to the performance or exercise of functions or powers under the Act and in relation to certain activities to which the Act relates; (d) enable the setting of standards that are to be met by funded disability services providers in providing, or ensuring the provision of, specialist disability services; (e) ensure that funded disability services providers provide, or ensure the provision of, specialist disability services in a manner that meets those standards; and (f) regulate the use of restrictive interventions by disability

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				<p>services providers and funded private persons.</p> <p>Note: 'disability' is defined in the Act to mean a disability of the person which:</p> <p>(a) is attributable to a cognitive, intellectual, psychiatric, sensory or physical impairment or a combination of those impairments;</p> <p>(b) is permanent or likely to be permanent;</p> <p>(c) results in:</p> <p>(i) a substantial restriction in the capacity of the person to carry on a profession, business or occupation, or to participate in social or cultural life; and</p> <p>(ii) the need for continuing significant support services; and</p> <p>(d) may or may not be of a chronic episodic nature.</p>
			5	<p>5(2) states that the following principles are to be applied in respect of 'relevant activities' (defined below):</p> <p>(a) the needs and best interests of persons with disability are to be promoted;</p> <p>(b) so far as is practicable, and having regard to the intellectual capacity of the person with disability, decisions or actions that may directly affect a person with disability:</p> <p>(i) should only be taken after the person has been consulted;</p>

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				<p>and</p> <p>(ii) should take into account the wishes of the person, to the extent that they are consistent with the needs and best interests of the person and the safety of the person and others; and</p> <p>(iii) should only result in the restriction of the freedom of decision and action of the person, if at all, to the smallest extent that is practicable in the circumstances;</p> <p>(c) the inherent dignity of persons with disability and their individual autonomy, including the freedom to make their own choices and their right to independence, is to be respected;</p> <p>(d) persons with disability are not to be discriminated against;</p> <p>(e) persons with disability are to be given the opportunity for full and effective participation and inclusion in society;</p> <p>(f) there is to be respect for persons being different, and acceptance of persons with disability, as part of human diversity and humanity;</p> <p>(g) persons with disability are to be given opportunities that are equal, or equivalent, to the opportunities available to persons without disability;</p> <p>(h) specialist disability services are to be as physically and technologically accessible as possible to persons with</p>

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				<p>disability;</p> <p>(i) equality between men and women is to be promoted; and</p> <p>(j) the fact that the capacities of children with disability may evolve as they mature, and the right of children with disability to preserve their identities as equal citizens, are to be respected.</p> <p>Note: 'Relevant activities' is defined in s 5(1) to include the:</p> <ul style="list-style-type: none"> - design, administration and provision of specialist disability services by a funded disability services provider; - preparation and approval of individual plans by disability services providers or the preparation of such plans by a person nominated by a person with disability; or - carrying out of research or development activities by funded disability research providers.
			10	<p>Note: Part 2, Division 2 of the Act makes provision for the application of individual plans for the provision of specialist disability services to a person that has a disability. 'Specialist disability services' is defined in the Act to mean services specifically for, or related to, the support of persons with disability and includes:</p> <ul style="list-style-type: none"> (a) accommodation support services; (b) home care and family support services;

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				<p>(c) in-home community-based services;</p> <p>(d) intake and assessment services;</p> <p>(e) independent living training services;</p> <p>(f) information services and print disability services;</p> <p>(g) recreation services;</p> <p>(h) respite care services;</p> <p>(i) education or training services;</p> <p>(j) counselling, support or advocacy services;</p> <p>(k) community visitor services;</p> <p>(l) therapy services;</p> <p>(m) equipment services;</p> <p>(n) transport services;</p> <p>(o) intermediary services.</p> <p>10 states that the content of an 'individual plan' in relation to a person with a disability is to include:</p> <p>(a) the outcomes intended be attained by the person through the provision to that person of specialist disability services or the provision of other goods or services;</p>

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				<p>(b) the specialist disability services, and other goods or services, that may be required in order to attain those outcomes;</p> <p>(c) any specialist disability services, or other goods or services, that may require financing under a grant;</p> <p>(d) the rights and responsibilities of the person and any disability services provider or funded private person that provides specialist disability services to the person; and</p> <p>(e) the period for which the plan is to be in force.</p>
			13	The Secretary of the relevant government department has the power to provide direct or indirect assistance for specialist disability services provided to a person with disability.
			14	<p>The Secretary of the relevant government department has the power to make a grant to a:</p> <ul style="list-style-type: none"> - person or organisation for the purpose of enabling the provision of specialist disability services; - person or organisation for the purpose of enabling research or development activity; or - person with a disability, for the purpose of enabling the provision of specialist disability services or other goods or services that are necessary or desirable to remediate the disadvantage, or difficulties, associated with that person's disability.

9. Australian Capital Territory

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

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<p>ARTICLE 23:</p> <p>1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.</p> <p>2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.</p> <p>3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has</p>	<p>Discrimination Act 1991</p>	<p>ACT</p>	<p>7(1)</p>	<p>It is unlawful to discriminate against someone with a disability.</p>
			<p>8</p>	<p>8(1) states that a person discriminates against another person with a disability if they:</p> <p>(a) treat a person with a disability unfavourably because of that disability; or</p> <p>(b) if the person imposes or proposes to impose a condition or requirement that has or has the likely effect of disadvantaging people with disabilities.</p> <p>However, if a condition or requirement is reasonable in the circumstances, then there will be no discrimination (8(2)).</p> <p>In deciding whether a condition or requirement is reasonable in the circumstances, the matters to be taken into account are set out at 8(3) and include:</p> <p>(a) the nature and extent of the resultant disadvantage;</p> <p>(b) the feasibility of overcoming or mitigating the disadvantage; and</p> <p>(c) whether the disadvantage is disproportionate to the result sought by the person who imposes or proposes to impose the</p>

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<p>effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development</p> <p>4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.</p>				condition or requirement.
			9	9(1) states that a person discriminates against another person on the ground of disability if they treat the other person unfavourably because that person possesses or is accompanied by a guide-dog, a hearing dog, assistance animal or some other aid associated with the disability.
			18	<p>18(1) states that it is unlawful for an educational authority to:</p> <p>(a) fail/refuse to accept a person's application for admission as a student; or</p> <p>(b) discriminate in the terms or conditions on which it is prepared to admit the person as a student</p> <p><u>because</u> that person has a disability</p> <p>18(2) states that it is unlawful for an educational authority to :</p> <p>(a) deny the student access, or limit the student's access, to any benefit provided by the authority; or</p> <p>(b) expel the student; or</p> <p>(c) subject the student to any other detriment</p> <p><u>because</u> that student has a disability</p> <p>Note: Section 51 sets out the exceptions to this.</p>

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			19(1)	<p>19(1) makes it unlawful for a person to discriminate against a person because they have a disability:</p> <ul style="list-style-type: none"> - by refusing access to or the use of a public premises or the use of any facilities in a public premises, or - in the terms and conditions allowing a person access to, use of or use of facilities in a public premises. <p>Note: Section 52 sets out the exceptions to this.</p>
			20	<p>It is unlawful for a person who provides goods or services, or makes facilities available, to discriminate against a person because that person has a disability:</p> <ul style="list-style-type: none"> (a) by refusing to provide those goods or services or make those facilities available to the other person; (b) in the terms or conditions on which the provider provides those goods or services or makes those facilities available to the other person; or (c) in the way in which the provider provides those goods or services or makes those facilities available to the other person; <p>Note: Section 53 sets out the exceptions to this.</p>
			22	<p>22(1) makes it unlawful for a club, the committee of management of a club or a member of the committee of management of a club to discriminate against a non-member</p>

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				<p>of a club because that non-member has a disability:</p> <p>(a) by failing/refusing to accept the person's application for membership; or</p> <p>(b) in the terms or conditions on which the club is prepared to admit the person to membership;</p> <p>22(2) makes it unlawful for a club, the committee of management of a club or a member of the committee of management of a club to discriminate against a club member because that member has a disability.</p> <p>(a) in the terms or conditions of membership afforded to the member;</p> <p>(b) by failing to accept the member's application for a particular class or type of membership;</p> <p>(c) by denying the member access, or limiting the member's access, to any benefit provided by the club;</p> <p>(d) by depriving the member of membership or varying the terms of membership; or</p> <p>(e) by subjecting the member to any other detriment;</p> <p>Note: Section 55 sets out the exceptions to this.</p>
	<p>Disability Services Act 1991</p>	<p>ACT</p>	<p>3</p>	<p>The <i>Disability Services Act</i> aims to:</p> <p>(a) enable people with disabilities to receive the services</p>

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				<p>necessary to enable them to achieve their maximum potential as members of the community;</p> <p>(b) enable people with disabilities to receive services that:</p> <ul style="list-style-type: none"> - further their integration into the community and complement services available generally to people in the community; - enable them to achieve a better quality of life including increased independence, employment opportunities and integration in the community; - are provided in ways that promote in the community a positive image of people with disabilities and enhance their self-esteem; <p>(c) ensure that the quality of life achieved by people with disabilities as the result of the services provided for them is taken into account in the granting of financial assistance for the provision of those services;</p> <p>(d) encourage innovation in the provision of services for people with disabilities; and</p> <p>(e) provide a system to administer funding for people with disabilities that is flexible and responsive to the needs and aspirations of those people.</p>
			6, Schedule 1 & Schedule 2	The Minister may approve grants of financial assistance to a provider of services, person with a disability, or a researcher; provided that the grant furthers the Human Rights principles

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				<p>set out in Schedule 1 of the Act and complies with the requirements in Schedule 2 of the Act in relation to the design and implementation of programs and services relating to people with disabilities. The grantee must also enter into an agreement with the Minister in accordance with Section 7 of the Act (Conditions of grants).</p> <p>The human rights principles to be furthered in relation to people with disabilities (Schedule 1) are that:</p> <ol style="list-style-type: none"> (1) All people with disabilities are individuals who have the inherent right to respect for their human worth and dignity. (2) People with disabilities, whatever the origin, nature, type or degree of disability, have the same basic human rights as other members of society and should be enabled to exercise these basic human rights. (3) People with disabilities have the same rights as other members of society to realise their individual capacities for physical, social, emotional and intellectual development. (4) People with disabilities and carers of people with disabilities have the same right as other members of society to services that will support their attaining a reasonable quality of life. (5) People with disabilities have the same right as other members of society to make and actively participate in the decisions that affect their lives and are entitled to appropriate and necessary support to enable participation in, direction and

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				<p>implementation of the decisions that affect their lives.</p> <p>(6) People with disabilities have the same right as other members of society to receive services in a manner that results in the least restriction of their rights and opportunities.</p> <p>(7) People with disabilities have the same right of pursuit of any grievance in relation to services as have other members of society.</p> <p>(8) People with disabilities who wish to pursue a grievance also have the right to:</p> <p>(a) adequate support to enable pursuit of the grievance; and</p> <p>(b) be able to pursue the grievance without fear of discontinuation of services or recrimination from any person or agency who may be affected by or involved in the pursuit of the grievance.</p> <p>The requirements to be complied with in relation to the design and implementation of programs and services relating to people with disabilities (Schedule 2) are that:</p> <p>(1) Services should have as their focus the achievement of a better quality of life for people with disabilities, such as increased independence, education and employment opportunities and integration into the community.</p> <p>(2) Services should contribute to ensuring that the conditions of everyday life of people with disabilities are the same as, or as close as possible to, the conditions of everyday life</p>

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				<p>enjoyed in the general community.</p> <p>(3) Services should be provided as part of local coordinated service systems and be integrated with services generally available to members of the community where possible.</p> <p>(4) Services should be tailored to meet the individual needs and goals of people with disabilities.</p> <p>(5) Programs and services should be designed and administered to meet the needs of people with disabilities who may experience additional disadvantage because of their sex, sexuality, ethnic origin, physical isolation or Aboriginality.</p> <p>(6) Programs and services should be designed and administered so as to promote recognition of the competence of, and enhance the image of, people with disabilities.</p> <p>(7) Programs and services should be designed and administered so as to promote the participation of people with disabilities in the life of the local community through maximum physical and social integration in that community.</p> <p>(8) Programs and services should be designed and administered so as to ensure that no single organisation providing services exercises control over all or most aspects of the life of a person with disabilities.</p> <p>(9) Organisations providing services, whether those services are provided specifically to people with disabilities or generally to the community, should make available</p>

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				<p>information from that the quality of their services can be judged.</p> <p>(10) Programs and services should be designed and administered so as to provide opportunities for people with disabilities to reach goals and enjoy lifestyles that are valued by the community generally and are appropriate to their age.</p> <p>(11) Services should be designed and administered so as to ensure that people with disabilities have access to advocacy support where necessary to ensure adequate participation in decision making about the services they receive.</p> <p>(12) Programs and services should be designed and administered so as to ensure that appropriate avenues exist for people with disabilities to raise and have resolved any grievances about services.</p> <p>(13) Services should be designed and administered so as to provide people with disabilities with, and encourage them to make use of, avenues for continuing participation in the planning and operation of services that they receive. In particular, programs and services provided to people with disabilities by the ACT government and organisations should provide opportunities for consultation in relation to the development of major policy and program changes.</p> <p>(14) Programs and services should be designed and administered so as to respect the rights of people with disabilities to privacy and confidentiality.</p>

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	Domestic Relationships Act 1994	ACT	19	<p>19(1) gives the court the power to order a party to a domestic relationship (which does not include a legal marriage), on the application by the other party to that relationship, to pay maintenance for a child (belonging to one or both parties) that has a physical or mental disability up to the age of 16 years [<i>Note that for a child without a disability the age limit is 12 years</i>], provided that the applicant is unable to support himself or herself adequately due to having the care and control of that child.</p> <p>Note: 'domestic relationship' is defined in the Act as a personal relationship between two adults in which one provides personal or financial commitment and support of a domestic nature for the material benefit of the other and includes a domestic partnership but does not include a legal marriage.</p>
			22(2)	The above (see section 19) also applies to the granting of periodic maintenance orders for a child with a physical or mental disability.
	Public Advocate Act 2005	ACT	10	<p>10 outlines the functions of the public advocate, which include:</p> <ul style="list-style-type: none"> - acting as advocate for the rights of people with a disability and, as part of acting as advocate for those rights, doing the following: <p>(i) fostering the provision of services and facilities for people with a disability;</p>

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				<p>(ii) supporting the establishment of organisations that support people with a disability;</p> <p>(iii) encouraging the development of programs that benefit people with a disability (including advocacy programs, educational programs and programs to encourage people to act as guardians and managers);</p> <p>(iv) promoting the protection of people with a disability from abuse and exploitation;</p> <p>- dealing, on behalf of people with a disability and children and young people, with entities providing services; and</p> <p>- exercising the functions given to the public advocate under the <i>Children and Young People Act 2008</i>, the <i>Guardianship and Management of Property Act 1991</i> and the <i>Mental Health (Treatment and Care) Act 1994</i></p>
			11	<p>11(1) states that the public advocate may:</p> <p>(a) listen to concerns from children and young people about the provision of services for the protection of children and young people;</p> <p>(b) investigate such concerns; or</p> <p>(c) investigate complaints and allegations about matters in relation to which the public advocate has a function.</p> <p>11(2) requires the public advocate to refer systemic matters relating to people with a disability and children and young</p>

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				people to the human rights commission for consideration.
	Education Act 2004	ACT	7(3)	7(3) states that everyone involved in the administration of the <i>Education Act 2004</i> , or in the school education of children in the ACT, is to apply the principle that school education: (a) recognises the individual needs of children with disabilities; and (b) should make appropriate provision for those needs, unless it would cause unjustifiable hardship to the provider of the school education.
	Human Rights Act 2004	ACT	8	8(2) states that everyone has the right to enjoy his or her human rights without distinction or discrimination of any kind. 8(3) states that everyone is equal before the law and is entitled to the equal protection of the law without discrimination. In particular, everyone has the right to equal and effective protection against discrimination on any ground [i.e. including disability].
			11(2)	11(2) states that every child has the right to the protection needed by the child because of being a child, without distinction or discrimination of any kind [i.e. on the basis of disability].
Mental Health (Treatment and Care) Act 1994	ACT	7	Note: The <i>Mental Health (Treatment and Care) Act 1994</i> deals with people, including children, with a ' mental dysfunction ', which is defined by the Act as a disturbance or	

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				<p>defect, to a substantially disabling degree, of perceptual interpretation, comprehension, reasoning, learning, judgment, memory, motivation or emotion. This definition is therefore capable of encompassing persons with a developmental disability of the mind. The mental health legislation in other states, for example South Australia's <i>Mental Health Act 2009</i>, specifically exclude developmental disability of the mind from the ambit of this type of legislation.</p> <p>The <i>Mental Health (Treatment and Care) Act</i> aims to (as set out in section 7):</p> <ul style="list-style-type: none"> (a) provide treatment, care, rehabilitation and protection for mentally dysfunctional persons in a manner that is least restrictive of their human rights; (b) provide for mentally dysfunctional persons to receive treatment, care, rehabilitation and protection voluntarily and, in certain circumstances, involuntarily; (c) protect the dignity and self-respect of mentally dysfunctional persons; (d) ensure that mentally dysfunctional persons have the right to receive treatment, care, rehabilitation and protection in an environment that is the least restrictive and intrusive, having regard to their needs and the need to protect other persons from physical and emotional harm; and (e) facilitate access by mentally dysfunctional to services and facilities appropriate for the provision of treatment, care,

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			8	<p>rehabilitation and protection.</p> <p>In providing services and facilities for mentally dysfunctional persons, section 8 states that the following objectives are to be taken into consideration by the ACT government:</p> <p>(a) to establish, develop, promote, assist and encourage services and facilities:</p> <ul style="list-style-type: none"> - that provide a strong and viable system of treatment and care, and a full range of services and facilities, for mentally dysfunctional persons; - that take into account the various religious, cultural and language needs of mentally dysfunctional persons; - that minimise the adverse effects of mental dysfunction in the community; - that are comprehensive and accessible; and - that support mentally dysfunctional persons in the community and coordinate with other community services; <p>(b) to ensure that mentally dysfunctional persons are informed of their rights and entitlements under the Act;</p> <p>(c) to assist and encourage voluntary agencies to provide services for mentally dysfunctional persons;</p> <p>(d) to promote a high standard of training for those</p>

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				<p>responsible for the care of mentally dysfunctional persons;</p> <p>(e) to consult with persons who are receiving or have received such services, their carer's and the community about the provision of services and facilities for mentally dysfunctional persons and to establish formal and informal consultative mechanisms for this purpose; and</p> <p>(f) to promote the welfare of mentally dysfunctional persons.</p>
			9	<p>A person exercising a function under the Act in relation to a mentally dysfunctional person must endeavour to ensure that any restrictions on that person's personal freedom and any derogation of that person's dignity and self-respect are kept to the minimum necessary for the proper care and protection of the person and the protection of the public.</p>
			25(1)	<p>The effect of 25(1) is that before making a mental health order in relation to a child, the ACAT must, as far as practicable, consult the people with parental responsibility for the child and also the person most likely to be responsible for providing the treatment, programs and other services proposed to be ordered.</p>
			70A	<p>70A(1) states that this section applies if the Children's Court makes a:</p> <ul style="list-style-type: none"> - care and protection order; - interim care and protection order with a mental health ACAT provision; or

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				<p>- interim therapeutic protection order, under the Children and Young People Act 2008</p> <p>requiring a person to submit to the jurisdiction of the ACAT to enable a determination to be made as to whether a person has a mental dysfunction.</p> <p>70A(2) states that if the ACAT determines, on the balance of probabilities, that the person has a mental dysfunction, the ACAT must make recommendations to the court about how the person should be dealt with.</p>
			81	<p>If a child is not separately represented in ACAT proceedings but it appears to ACAT that they should be, it may adjourn the proceeding to allow the child to obtain representation; and</p> <p>give reasonably necessary advice and assistance to the child to allow the child to obtain representation.</p>
			7(e)(iv)	<p>The <i>Children and Young People Act</i> aims, among other things, to ensure that services provided by, or for, the government for the wellbeing, care and protection of children and young people respect any disability they may have.</p>
			19(2)	<p>19(2) states that a person who has daily care responsibility for a child or young person may:</p> <ul style="list-style-type: none"> - consent to a health care assessment of the child or young person's physical or mental wellbeing and have access to the assessment report; and - on the advice of a health practitioner or health professional,

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				<p>consent to health care treatment, not including surgery (other than dental surgery recommended on the advice of a dentist or dental therapist), for the child or young person.</p> <p>Note: 'Health care treatment' is defined in the Act to include treatment of a disability by a health practitioner or health professional.</p>
			20(2)	20(2) states that a person who has long-term care and responsibility for a child or young person may, on the advice of a health practitioner or health professional, consent to health care treatment that involves surgery for the child or young person.
			545	<p>545(1) states that the Children's Court must make an interim therapeutic protection order for a child or young person if:</p> <p>(a) an application for a therapeutic protection order for the child or young person has been made but not finally decided; and</p> <p>(b) the Children's Court suspects on reasonable grounds that the child or young person is suffering from a mental dysfunction.</p> <p>(2) The order must contain a provision directing the child or young person to submit to the jurisdiction of the ACAT to allow the ACAT:</p> <p>(a) to decide whether the child or young person is suffering from a mental dysfunction; and</p>

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				<p>(b) if the ACAT decides that the child or young person is suffering from a mental dysfunction, to make recommendations to the Children's Court about how the child or young person should be dealt with.</p> <p>Note: The Children's Court can only make a therapeutic protection order [as distinct from an interim therapeutic protection order] for a child or young person only if satisfied that the child or young person is not suffering from a mental illness or mental dysfunction (see s 549). A therapeutic protection order is defined in s 532 as an order that confines the child for a period of time for therapeutic treatment and transfers the daily care of the child to the director-general for the period of confinement.</p>
			543	543 states that an interim therapeutic protection order is the same as a therapeutic protection order but the period of confinement cannot be longer than 2 weeks.
			503	<p>503(1) states that if the director-general has parental responsibility for a child or young person, the director-general may provide to that person:</p> <ul style="list-style-type: none"> (a) placement with an out-of-home carer; (b) financial support; (c) counselling; (d) appropriate education, training and employment opportunities;

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				<p>(e) health care treatment;</p> <p>(f) recreational opportunities;</p> <p>(g) a care plan;</p> <p>(h) an explanation, in a way the child or young person can understand, of the aim of care plans.</p> <p>503(2) states that if the director-general stops having parental responsibility for a child or young person (for any reason), the director-general may arrange for financial or other assistance to be provided to, or for, the child or young person on conditions the director-general considers appropriate.</p>