

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

(Presented pursuant to leave granted and read 1^o, 14 November 1985)

(THE MINISTER FOR COMMUNITY SERVICES, SENATOR GRIMES)

A BILL

FOR

An Act to amend the *Child Care Act 1972*, and for related purposes

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

1. (1) This Act may be cited as the *Child Care Amendment Act 1985*.

5 (2) The *Child Care Act 1972*¹ is in this Act referred to as the Principal Act.

Commencement

2. This Act shall come into operation on 1 April 1986.

3. Section 11 of the Principal Act is repealed and the following section is substituted:

Grants for recurrent expenditure

“11. (1) The Minister may, in the discretion of the Minister and on behalf of the Commonwealth, by instrument in writing, approve the making of grants to an eligible organisation that operates a child care centre or child care centres in respect of each centre operated by the organisation which the Minister is satisfied will be operated— 5

(a) for not less than 8 hours during each normal working day during which the centre will open; and 10

(b) on all normal working days in not less than 48 weeks in each year, in respect of each quarter, being grants for the purpose of assisting the organisation to meet the operating expenses of each such centre, and, while such an approval remains in force, an amount ascertained in accordance with this section is payable to the organisation in respect of each such centre in respect of each quarter. 15

“(2) Where—

(a) a grant was made to an eligible organisation in respect of a child care centre under section 11 of this Act as in force immediately before 1 April 1986 in respect of the quarter ending on 31 March 1986; and 20

(b) the Minister is not satisfied that the centre will be operated on all normal working days in not less than 48 weeks in each year,

the Minister may, in the discretion of the Minister and on behalf of the Commonwealth, by instrument in writing, approve the making of grants to the organisation in respect of the centre in respect of each quarter, being grants for the purpose of assisting the organisation to meet the operating expenses of the centre, and, while such an approval remains in force, the amount (not exceeding the sum of the amounts that would be calculated under paragraphs (9) (a) and (b) in respect of the centre if sub-section (9) applied to the centre) from time to time determined by the Minister by instrument in writing is payable to the organisation in respect of the centre in respect of each quarter. 25 30

“(3) Where the Minister has given an approval under sub-section (1) or (2) in respect of a child care centre operated by an eligible organisation, the Minister shall, by instrument in writing, determine— 35

(a) the maximum number of places at the centre that are approved places for the purposes of this section; and

(b) the number of those approved places that are approved places for— 40
 (i) children under the age of 3 years; and
 (ii) children of or above the age of 3 years.

“(4) An eligible organisation that operates or proposes to operate a child care centre—

(a) for more than 10 hours during each normal working day during which the centre will open; and

5 (b) on all normal working days in not less than 48 weeks in each year, may, by notice in writing given to the Minister, request the Minister to give an approval under sub-section (5) in respect of the centre.

“(5) Where—

(a) an eligible organisation makes a request under sub-section (4) in respect of a child care centre; and

10 (b) the Minister is satisfied that the centre will be operated as mentioned in that sub-section,

the Minister may, in the discretion of the Minister and on behalf of the Commonwealth, by instrument in writing—

(c) approve the making of additional grants to the organisation in respect of each quarter; and

15 (d) determine the number of hours of operation of the centre during each normal working day during which the centre will open that the Minister considers should be taken into account for the purpose of calculating the amounts of those additional grants, being a number of hours greater than 10 and equal to or less than the number of
20 hours that the Minister is satisfied the centre will be operated during each working day during which the centre will open.

“(6) Where the Minister has given an approval under sub-section (5) in respect of a child care centre operated by an eligible organisation, the
25 Minister may, by instrument in writing, vary the number of hours of operation of the centre determined under paragraph (5) (d).

“(7) For the purposes of this section, the rate for each approved place at a child care centre operated by an eligible organisation is—

30 (a) in the case of an approved place for a child under the age of 3 years—\$16 per week or such greater amount per week as is determined by the Minister from time to time by notice in writing published in the *Gazette*; or

35 (b) in the case of an approved place for a child of or above the age of 3 years—\$11 per week or such greater amount per week as is determined by the Minister from time to time by notice in writing published in the *Gazette*.

“(8) Where the Minister determines an amount per week under paragraph (7) (a) or (b), the Minister shall not subsequently determine a lower amount per week under that paragraph.

40 “(9) The amount of a grant (other than an additional grant under sub-section (10)) to an eligible organisation in respect of a child care centre in respect of a quarter, being a centre in respect of which an approval under sub-section (1) is in force at the beginning of that quarter, is the sum of—

(a) the amount calculated by multiplying the number of approved places at that centre at the beginning of that quarter in respect of

children under the age of 3 years by 13 times the rate applicable at the beginning of that quarter under paragraph (7) (a); and

- (b) the amount calculated by multiplying the number of approved places at that centre at the beginning of that quarter in respect of children of or above the age of 3 years by 13 times the rate applicable at the beginning of that quarter under paragraph (7) (b).

“(10) While an approval under sub-section (5) remains in force in respect of a child care centre operated by an eligible organisation, an additional grant of an amount from time to time determined by the Minister by instrument in writing is payable to the organisation in respect of the centre in respect of each quarter for the purpose of assisting the organisation to meet the operating expenses of the centre.

“(11) In determining the amount of an additional grant under sub-section (10) to an organisation in respect of a child care centre, the Minister shall have regard to the number of hours of operation of the centre determined under paragraph (5) (d) or varied under sub-section (6) and to such other matters as the Minister considers relevant.

“(12) Where the Minister revokes an approval under sub-section (1), (2) or (5), the revocation takes effect on the last day of the quarter during which the revocation was made.

“(13) Where the Minister revokes an approval under sub-section (1) in respect of a child care centre in respect of which an approval under sub-section (5) is in force, the approval under sub-section (5) ceases to have effect on the day on which that revocation takes effect.

“(14) The Minister may give an approval under sub-section (1) or (5) in respect of a child care centre that an eligible organisation proposes to operate, but an approval so given has no effect until the organisation commences to operate the centre.

“(15) Where the Minister gives, after the beginning of a quarter, an approval under sub-section (1), (2) or (5) in respect of a child care centre operated by an eligible organisation, the amount of the grant under this section in respect of that centre in respect of that quarter is such amount as the Minister, by instrument in writing, determines.

“(16) Where—

- (a) an approval under sub-section (1), (2) or (5) in respect of a child care centre operated by an eligible organisation is in force at the beginning of a quarter; and

- (b) the organisation ceases to operate that centre before the end of that quarter,

the amount of the grant under this section in respect of that centre in respect of that quarter is such amount as the Minister, by instrument in writing, determines.

“(17) In determining the amount of a payment under sub-section (15) or (16) in respect of a child care centre in respect of a quarter, the Minister shall have regard to the number of weeks during that quarter that the centre will be or was operated by the organisation.

5 “(18) Where the Minister gives or revokes an approval under this section, or makes or varies a determination under this section, in respect of a child care centre operated or proposed to be operated by an eligible organisation, the Minister shall give a notice in writing to the organisation stating that the approval has been given or revoked or that the determination has been made or varied, as the case may be.

“(19) The Minister may, in the discretion of the Minister, make advances of such amounts as the Minister thinks fit on account of amounts that may become payable to an eligible organisation under this section.

15 “(20) In this section, ‘quarter’ means the period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in any year.”.

Conditions relating to grants

4. Section 20 of the Principal Act is amended

(a) by omitting paragraph (4) (b) and substituting the following paragraph:

20 “(b) in a case where an approval under sub-section 11 (1) is in force in relation to the centre shall, except in exceptional circumstances, provide child care on all normal working days in not less than 48 weeks in each year and

25 (i) if an approval under sub-section 11 (1) is in force in relation to the centre but an approval under sub-section 11 (5) is not in force in relation to the centre for not less than 8 hours during each normal working day during which the centre will open; or

30 (ii) if an approval under sub-section 11 (5) is in force in relation to the centre for the number of hours during each normal working day during which the centre will open determined by the Minister under paragraph 11 (5) (d) or varied by the Minister under sub-section 11 (6), as the case requires.”; and

35 (b) by inserting in sub-section (6) “11 (19) or” after “sub-section”.

5. After section 20A of the Principal Act the following section is inserted:

Overpayments

40 “20B. (1) The payment of an amount to an eligible organisation under this Act is, in addition to any conditions imposed under section 20, subject to the condition that if, for any reason, an amount (in this sub-section referred to as the ‘recoverable amount’) has been paid to the organisation by way of grant or advance on account of grant under this Act that should not have been paid, the organisation will, on demand by the Minister by

notice in writing given to the organisation, repay to the Commonwealth the recoverable amount or that part of the recoverable amount specified in the notice.

“(2) The Minister may deduct an amount repayable by an eligible organisation under sub-section (1) or part of such an amount from an amount (including an advance) payable to the organisation under this Act.”. 5

Money to be appropriated

6. Section 24 of the Principal Act is amended by inserting “11 (19) or” after “sub-section”.

Transitional

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7. Where—

- (a) a grant is made to an eligible organisation in respect of a child care centre under section 11 of the Principal Act as amended by this Act in respect of the quarter commencing on 1 April 1986 and subsequent quarters; 15
- (b) a grant under section 11 of the Principal Act was made to the organisation in respect of that child care centre in respect of the quarter ending on 31 March 1986; and
- (c) the grant referred to in paragraph (b) was, in accordance with an agreement made with the organisation under section 20 of the Principal Act, subject to terms and conditions, 20

those terms and conditions shall, unless a new agreement is entered into under section 20 of the Principal Act as amended by this Act with respect to the terms and conditions upon which the grant referred to in paragraph (a) is made, continue to apply in relation to the grant referred to in paragraph (a), but terms and conditions which so continue to apply may be varied under sub-section 20 (5) of the Principal Act as amended by this Act. 25

NOTE

1. No. 121, 1972, as amended. For previous amendments, see No. 63, 1984; and No. 95, 1985.

