

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time

(Human Services and Health)

A BILL

FOR

An Act to amend legislation relating to child care, and for related purposes

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Child Care Legislation Amendment Act 1995*.

Commencement

2. This Act commences on the day on which it receives the Royal Assent.

Schedule

3. The Acts specified in the Schedule are amended in accordance with the applicable items in the Schedule.

SCHEDULE

Section 3

AMENDMENTS OF ACTS

Child Care Act 1972

1. After subparagraph 12A(1)(a)(i):

Insert:

- “(ia) in verifying, for the purpose of assessing the amount of fee relief payable to the operator of an eligible child care centre, the work related circumstances of the families of children in economic need; and
- (ib) in identifying, for the purpose of assessing the amount of fee relief payable to the operator of an eligible child care centre, children receiving child care at an eligible child care centre as children to whom special circumstances apply; and”.

2. After subsection 12A(1):

Insert:

“(1A) The reference in subparagraph (1)(a)(ia) to verifying the work related circumstances of a family is a reference to deciding whether each parental member of the family is a person to whom one or more of the following applies:

- (a) the person has recognised work or work related commitments within the meaning of section 29 of the *Childcare Rebate Act 1993*;
- (b) the person has recognised training commitments within the meaning of section 30 of that Act;
- (c) the person has recognised study commitments within the meaning of section 31 of that Act.”.

3. Section 12A:

Add at the end:

“(4) In this section:

‘**family**’, in relation to verification of a kind referred to in subparagraph (1)(a)(ia), has the same meaning as it would have in section 5 of the *Childcare Rebate Act 1993* if the references in that section to the Managing Director of the Health Insurance Commission were references to the person responsible for the verification;

‘**parental member**’, in relation to a family, has the same meaning as in section 4 of the *Childcare Rebate Act 1993*.”.

SCHEDULE—continued**Childcare Rebate Act 1993****4. Title:**

Add at the end “, and for other purposes related to child care”.

5. After section 31:

Insert in Division 2 of Part 3:

Guidelines for assessing work, training and study commitments

“31A.(1) In deciding whether a family meets requirements under this Division, the Commission must comply with any applicable guidelines made under subsection (2).

“(2) The Minister may make written guidelines about how the Commission is to decide whether families meet requirements under this Division.

“(3) Without limiting the matters that may be included in the guidelines, they may, in relation to any particular requirement under this Division, specify the kinds of evidence the Commission must require before deciding that families meet that requirement.

“(4) Guidelines under subsection (2) are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

6. After section 48:

Insert in Division 1 of Part 5:

Recording and disclosure of certain information for fee relief and priority of access purposes

“48A.(1) Subject to subsection (2), the Commission may:

(a) record, for later use for the purposes of section 12A of the *Child Care Act 1972* or in the determination of priority of access to places in Commonwealth funded child care services, decisions it makes under this Act relating to:

(i) the membership of families; or

(ii) any matter referred to in section 29, 30 or 31 relating to such families; and

(b) disclose those decisions to:

(i) a Department of the Commonwealth that needs the information for the purposes of section 12A of the *Child Care Act 1972*; or

(ii) the operator of a Commonwealth funded child care service that needs the information in order to determine priority of access to places in the service.

SCHEDULE—continued

“(2) The Commission must not disclose information under this section in relation to a family unless a parental member of the family has consented in writing to disclosure of the kind referred to in subsection (1).

“(3) In this section:

‘Commonwealth funded child care service’ means:

- (a) an eligible child care centre within the meaning of section 12A of the *Child Care Act 1972*; or
- (b) any other child care service the operator of which receives from the Commonwealth a grant of a similar kind to grants made under that section.”.

7. Section 53:

- (a) After “the following decisions” insert “under this Act”.
- (b) Add at the end:

“(2) An application may also be made to the Commission for reconsideration of a decision made by the Commission in performing its verification function under paragraph 8BAA(1)(a) of the *Health Insurance Commission Act 1973*.”.

Health Insurance Commission Act 1973

8. Part IIAA (heading):

Omit the heading, substitute:

“PART IIAA—CHILD CARE”.

9. After section 8BA:

Insert in Part IIAA:

Verification of families’ composition and work status

“8BAA.(1) Subject to subsection (3), the Commission’s functions include:

- (a) verifying, for the purposes of section 12A of the *Child Care Act 1972* or for the purpose of determination of priority of access to places in Commonwealth funded child care services, the membership and the work related circumstances of families; and
- (b) recording the results of those verifications for later use for either purpose; and

SCHEDULE—continued

(c) disclosing the results of those verifications to:

- (i) a Department of the Commonwealth that needs the information for the purposes of section 12A of the *Child Care Act 1972*; or
- (ii) the operator of a Commonwealth funded child care service that needs the information in order to determine priority of access to places in the service.

“(2) The reference in paragraph (1)(a) to verifying the work related circumstances of a family is a reference to deciding whether each parental member of the family is a person to whom one or more of the following applies:

- (a) the person has recognised work or work related commitments within the meaning of section 29 of the *Childcare Rebate Act 1993*;
- (b) the person has recognised training commitments within the meaning of section 30 of that Act;
- (c) the person has recognised study commitments within the meaning of section 31 of that Act.

“(3) The Commission must not perform its functions under this section in relation to a family unless a parental member of the family has consented in writing to verification and disclosure of the kind referred to in subsection (1).

“(4) In this section:

‘Commonwealth funded child care service’ means:

- (a) an eligible child care centre within the meaning of section 12A of the *Child Care Act 1972*; or
- (b) any other child care service the operator of which receives from the Commonwealth a grant of a similar kind to grants made under that section;

‘family’ has the same meaning as in section 5 of the *Childcare Rebate Act 1993*;

‘parental member’, in relation to a family, has the same meaning as in section 4 of the *Childcare Rebate Act 1993*.

Guidelines on the verification process

“8BAB.(1) In performing its verification function under paragraph 8BAA(1)(a), the Commission must comply with any applicable guidelines made under subsection (2).

“(2) The Minister may make written guidelines about how the Commission is to perform that function.

SCHEDULE—continued

“(3) Without limiting the matters that may be included in the guidelines, they may, in respect of any particular matter about which the Commission is to decide in performing that function, specify the kinds of evidence that the Commission must require in order to make a decision about that matter.

“(4) Guidelines under subsection (2) are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.



9 780644 434317