

1990

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 8 November 1990

(*Mr Braithwaite*)

A BILL

FOR

An Act to amend the *Disability Services Act 1986*

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

Short title etc.

5 **1. (1)** This Act may be cited as the *Disability Services Amendment Act 1990*.

(2) In this Act, “**Principal Act**” means the *Disability Services Act 1986*¹.

Commencement

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

3. (1) Section 5 of the Principal Act is repealed and the following section is substituted:

Principles, objectives and guidelines

15 “5. (1) The Minister may, by instrument in writing, formulate principles and objectives to be furthered, and guidelines to be complied with, in the administration of this Act.

“(2) The Minister shall cause a copy of an instrument under subsection (1) to be laid before each House of the Parliament within 15 sitting days of that House after the making of the instrument.

“(3) If an instrument under subsection (1) is not laid before each House of the Parliament in accordance with the provisions of subsection (2), it shall be void. 5

“(4) The principles, objectives or guidelines contained in an instrument under subsection (1) have no force or effect unless and until each House of the Parliament has agreed to a motion of which due notice has been given approving those principles, objectives or guidelines and the resolution of both Houses are in force at the same time. 10

“(5) A House of the Parliament may agree to a motion approving the principles, objectives or guidelines contained in an instrument under subsection (1) subject to amendments specified in the motion and, if a House does so, those principles, objectives or guidelines as so amended shall have force and effect (as if made by the Minister as so amended) if, but only if, while that resolution is in force, there is in force a resolution of the other House of the Parliament approving the principles, objectives or guidelines contained in the instrument subject to amendments specified in the resolution that are the same as the amendments specified in the motion of the first-mentioned House of Parliament. 15 20

“(6) A House of the Parliament may agree to a motion of which due notice has been given revoking a resolution approving (either with or without amendments) the principles, objectives or guidelines contained in an instrument under subsection (1) but not after those principles, objectives or guidelines, or those principles, objectives or guidelines as so amended, as the case may be, have become of force and effect. 25

“(7) An instrument under subsection (1) shall not be taken to be statutory rules within the meaning of the *Statutory Rules Publication Act 1903*, but subsections 5 (3) to (3C) (inclusive) of that Act apply to such an instrument as they apply to statutory rules. 30

“(8) For the purposes of the application of subsection 5 (3B) of the *Statutory Rules Publication Act 1903* in accordance with subsection (7) of this section, the reference in the first-mentioned subsection to the Minister of State for Sport, Recreation and Tourism shall be read as a reference to the Minister administering this Act. 35

“(9) Section 5 of the *Evidence Act 1905* applies to an instrument under subsection (1) of this section as that first-mentioned section applies to an order made by a Minister.”. 40

(2) Any principles, objectives and guidelines formulated by the Minister under section 5 of the Principal Act and in force immediately before the commencement of this Act continue in force after the commencement of this Act but cease to be in force: 45

- (a) upon the first principles, objectives or guidelines made by the Minister after the commencement of this Act becoming of force and effect, whether with or without amendments; or
- (b) upon the expiration of 5 months after the commencement of this Act; whichever first occurs.

Interpretation

4. Section 7 of the Principal Act is amended:

- (a) by inserting after the definition of “advocacy services” the following definition:

“**‘attendant care services’** means services by way of the provision of care by an able-bodied person to a disabled person providing a means for independent living by a disabled person;

- (b) by inserting after the definition of “service” the following definition:

“**‘staff training services’** means services to provide resources and training for staff members, including voluntary workers, of eligible organisations who work with persons with disabilities;” and

- (c) by adding at the end the following definition;

“**‘vocational training services’** means services to assist persons with a disability:

(a) who have a need for a high level of support; and

(b) who are unlikely to be able to obtain or retain paid employment without special training, in a business environment, in skills development and appropriate work behaviour and attitudes;

to develop and maintain vocational skills necessary for them to obtain and retain paid employment.”.

Approval of services

5. Section 9 of the Principal Act is amended:

- (a) by inserting after paragraph (2) (b) the following paragraph:

“(ba) attendant care services;” and

- (b) by adding at the end of subsection (2) the following paragraphs:

“; (k) staff training services;

(m) vocational training services.”.

Financial assistance for eligible services

6. Section 10 of the Principal Act is amended:

- (a) by adding at the end of paragraph (4) (c) “, being terms and conditions with respect to matters specified in paragraphs (5) (a) to (h) (inclusive).”;

- (b) by omitting from subsection (5) all words preceding paragraph (a) and substituting “The terms and conditions that may be

specified under paragraph (4) (c) are terms and conditions with respect to all or any of:”; and

- (c) by inserting after “fulfilment of” in paragraph (5) (g) “any specified”.

Review of outcomes of financial assistance for eligible services 5

7. Section 11 of the Principal Act is amended by omitting “the terms” and substituting “any terms”.

Financial assistance for research and development activities

8. Section 12 of the Principal Act is amended:

- (a) by adding at the end of paragraph (4) (c) “, being terms and conditions with respect to matters specified in paragraphs (5) (a) to (h) (inclusive).”; 10
- (b) by omitting from subsection (5) all words preceding paragraph (a) and substituting “The terms and conditions that may be specified under paragraph (4) (c) are terms and conditions with respect to all or any of:”; and 15
- (c) by inserting after “fulfilment of”, in paragraph (5) (f) “any specified”.

Financial assistance for prescribed services

9. Section 13 of the Principal Act is amended: 20

- (a) by adding at the end of paragraph (3) (c) “, being terms and conditions with respect to matters specified in paragraphs (4) (a) to (h) (inclusive).”; 25
- (b) by omitting from subsection (4) all words preceding paragraphs (a) and substituting “The terms and conditions that may be specified under paragraph (3) (c) are terms and conditions with respect to all or any of:”; 25
- (c) by inserting after “fulfilment of” in paragraph (4) (g) “any specified”; and
- (d) by omitting “1992” from subsection (5) and substituting “1995”. 30

Financial assistance for upgrading of prescribed services

10. Section 14 of the Principal Act is amended:

- (a) by adding at the end of paragraph (4) (c) “, being terms and conditions with respect to matters specified in paragraphs (5) (a) to (g) (inclusive).”; 35
- (b) by omitting from subsection (5) all words preceding paragraph (a) and substituting “The terms and conditions that may be specified under paragraph (4) (c) are terms and conditions with respect to all or any of:”; 35
- (c) by inserting after “fulfilment of” in paragraph (5) (f) “any specified”; and 40
- (d) by omitting from subsection (6) “1992” and substituting “1995”.

11. After section 16 of the Principal Act the following section is inserted in Division 4 of Part II:

Reviews of decisions under Part

5 “16A. (1) In subsection (2), ‘**reviewable decision**’ means a decision (within the meaning of the *Administrative Appeals Tribunal Act 1975*) made:

(a) by the Minister, or a delegate of the Minister, under section 10, 12, 13 or 14; or

10 (b) by an officer of the Department in, or in connection with, the administration of this Part in relation to a member, or members, of the target group or the making of a grant of financial assistance under this Part, including, but without limiting the generality of the foregoing, the terms and conditions on which such a grant may be made.

15 “(2) Applications may be made to the Administrative Appeals Tribunal for review of reviewable decisions.

“ (3) Decision of kinds referred to in paragraph (b) of the definition of ‘reviewable decision’ in subsection (1) are decisions to which the *Administrative Decisions (Judicial Review) Act 1977* applies.”.

20 **Approvals etc. to be tabled in the Parliament and disallowable**

12. Section 31 of the Principal Act is amended by omitting paragraph (1) (a).

Approvals etc. to be in writing

25 13. Section 32 of the Principal Act is amended by omitting “principle, objective, guideline”.

NOTE

1. No. 129, 1986, as amended. For previous amendments, see Nos. 80 and 99, 1988.



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